



# Agenda

Meeting: **Planning and Licensing Committee**  
Date: **25 January 2022**  
Time: **7.00 pm**  
Place: **Council Chamber, Civic Centre, Folkestone**

To: **All members of the Planning and Licensing Committee**

The committee will consider the matters, listed below, at the date, time and place shown above. The meeting will be open to the press and public.

Members of the committee, who wish to have information on any matter arising on the agenda, which is not fully covered in these papers, are requested to give notice, prior to the meeting, to the Chairman or appropriate officer.

This meeting will be webcast live to the council's website at <https://folkestone-hythe.public-i.tv/core/portal/home>.

Although social distancing rules have been relaxed, for the safety of the public, elected members and staff, we will continue to seat members of the public approximately one metre apart. This means that there will be 13 seats available for members of the public, which will be reserved for those speaking or participating at the meeting. The remaining available seats will be given on a first come, first served basis.

All attendees at meetings are kindly asked to wear face coverings, unless they are addressing the meeting.

Although unlikely, no guarantee can be made that Members of the public in attendance will not appear in the webcast footage. It is therefore recommended that anyone with an objection to being filmed does not enter the council chamber.

## **Queries about the agenda? Need a different format?**

Contact Sue Lewis – Tel: 01303 853265  
Email: [committee@folkestone-hythe.gov.uk](mailto:committee@folkestone-hythe.gov.uk) or download from our  
website  
[www.folkestone-hythe.gov.uk](http://www.folkestone-hythe.gov.uk)

1. **Apologies for Absence**

2. **Declarations of Interest (Pages 5 - 6)**

Members of the committee should declare any interests which fall under the following categories:

- a) disclosable pecuniary interests (DPI);
- b) other significant interests (OSI);
- c) voluntary announcements of other interests.

3. **Minutes (Pages 7 - 12)**

To consider and approve, as a correct record, the minutes of the meetings held on 11 and 23 November 2021.

4. **Minutes of the Licensing Sub-Committee (Pages 13 - 14)**

To consider and approve, as a correct record, the minutes of the meeting held on 2 December 2021.

5. **Gambling Act 2005 - Update to the Statement of Principles (Pages 15 - 74)**

Gambling Act 2005 requires the council, in its role as the local licensing authority, to prepare a Statement of Principles related to the exercise of its licensing functions. This Statement of Principles must be reviewed every three years. The current statement runs until April 2022. The Statement of Principles has been reviewed updated to cover the next three year period from 2022 to 2025. This report seeks approval from the Planning & Licensing Committee to publish the updated draft statement for public consultation.

6. **Princes Parade Promenade, princes Parade, Hythe CT21 6EQ (Pages 75 - 90)**

New electricity substation and bin store.

7. **Princes Parade Promenade, Princes Parade, Hythe CT21 6EQ (Pages 91 - 108)**

Storm water outfall drainage pipes.

8. **Motis Business Centre, Cheriton High Street, Folkestone CT19 4QJ (Pages 109 - 136)**

Erection of 6 x commercial units for Class E (specifically for office, research & development and industrial) and Class B8 purposes, extension of existing centre to provide further Class E office floorspace, children's nursery, cafe and gym and the provision of a 115no. space truck stop, a

transshipment building, along with an ancillary welfare facilities and office building, including access, parking and landscaping.

9. **Kings Arms, The Square, Elham, Canterbury CT4 6TJ (Pages 137 - 164)**

**20/0747/FH** - Erection of single storey rear extensions, refurbishment of existing outbuilding to provide dining area and all associated landscaping works

**20/0752/FH** - Listed building consent for the erection of single storey rear extensions, refurbishment of existing outbuilding to provide dining area and associated internal and external works

10. **Land 250 North East of Longage Hill Farm Cottages, Lyminge (Pages 165 - 180)**

Retrospective application for the erection of two timber sheds for agricultural storage and associated hardstanding (re-submission of 20/1799/FH).

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## **Declarations of Interest**

### **Disclosable Pecuniary Interest (DPI)**

Where a Member has a new or registered DPI in a matter under consideration they must disclose that they have an interest and, unless the Monitoring Officer has agreed in advance that the DPI is a 'Sensitive Interest', explain the nature of that interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a DPI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation permitting them to do so. If during the consideration of any item a Member becomes aware that they have a DPI in the matter they should declare the interest immediately and, subject to any dispensations, withdraw from the meeting.

### **Other Significant Interest (OSI)**

Where a Member is declaring an OSI they must also disclose the interest and explain the nature of the interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a OSI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation to do so or the meeting is one at which members of the public are permitted to speak for the purpose of making representations, answering questions or giving evidence relating to the matter. In the latter case, the Member may only participate on the same basis as a member of the public and cannot participate in any discussion of, or vote taken on, the matter and must withdraw from the meeting in accordance with the Council's procedure rules.

### **Voluntary Announcement of Other Interests (VAOI)**

Where a Member does not have either a DPI or OSI but is of the opinion that for transparency reasons alone s/he should make an announcement in respect of a matter under consideration, they can make a VAOI. A Member declaring a VAOI may still remain at the meeting and vote on the matter under consideration.

#### **Note to the Code:**

Situations in which a Member may wish to make a VAOI include membership of outside bodies that have made representations on agenda items; where a Member knows a person involved, but does not have a close association with that person; or where an item would affect the well-being of a Member, relative, close associate, employer, etc. but not his/her financial position. It should be emphasised that an effect on the financial position of a Member, relative, close associate, employer, etc OR an application made by a Member, relative, close associate, employer, etc would both probably constitute either an OSI or in some cases a DPI.

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# Minutes

## Planning and Licensing Committee

Held at:	Council Chamber - Civic Centre Folkestone
Date	Thursday, 11 November 2021
Present	Councillors John Collier, Clive Goddard (Chairman), Mrs Jennifer Hollingsbee, Nicola Keen, Jim Martin, Philip Martin (Vice-Chair), Jackie Meade, Terence Mullard (In place of Ian Meyers), Georgina Treloar and David Wimble
Apologies for Absence	Councillor Ian Meyers
Officers Present:	Kate Clark (Case Officer - Committee Services), Ewan Green (Director of Place), Sue Lewis (Committee Services Officer), Andrew Rush (Regulatory Services & Corporate Contracts Lead Specialist) and Briony Williamson (Licensing Specialist)
Others Present:	

### 48. **Declarations of Interest**

There were no declarations of interest.

### 49. **Licensing Policy Statement - Public Consultation**

The Licensing Authority is required to review and publish a Licensing Policy Statement for every successive five year period. A new draft statement was presented to the Planning and Licensing Committee on 24 August 2021 and the recommendation was agreed to proceed to public consultation. The consultation period is now ended. This report summarises the responses received, any amendments made to the policy statement and the final draft to be presented to Full Council for approval.

Members received a short presentation highlighting the key changes to the policy and noted the positive steps forward, paying particularly attention to the work alongside CSU, more guidance to license holders and the formation of a Licensing Forum.

Proposed by Councillor David Wimble  
Seconded by Councillor Clive Goddard and

**Resolved:**

- 1. To receive and note Report DCL/21/32.**
- 2. To receive and note the consultation responses received.**
- 3. To approve the final draft Licensing Policy Statement for the period 2021 to 2026 to be presented for approval by Full Council on 24 November 2021.**

(Voting: For 10; Against 0; Abstentions 0)



## Planning and Licensing Committee

Held at:	Council Chamber - Civic Centre Folkestone
Date	Tuesday, 23 November 2021
Present	Councillors Danny Brook, John Collier, Clive Goddard (Chairman), Mrs Jennifer Hollingsbee, Nicola Keen, Jim Martin, Philip Martin (Vice-Chair), Jackie Meade, Georgina Treloar and David Wimble
Apologies for Absence	Councillor Gary Fuller and Councillor Ian Meyers
Officers Present:	Rob Bailey (Development Management Lead Specialist), Kate Clark (Case Officer - Committee Services), Sue Head (Strategic Development Manager (Interim)), Ellen Joyce (Democratic Services Trainee), Sue Lewis (Committee Services Officer) and Ross McCardle (Principal Planning Officer)
Others Present:	

### 50. **Declarations of Interest**

Councillors Danny Brook, Clive Goddard, Mrs Jenny Hollingsbee, Jim Martin, Philip Martin and David Wimble declared a voluntary announcement in that they are known to one of the speakers in respect of application – Seven Acre Field, St Mary in the Marsh. They remained in the meeting during discussion and voting on the item.

### 51. **Minutes**

The minutes of the meeting held on 19 October 2021 were submitted, approved and signed by the Chairman.

### 52. **20/0765/FH 1 Cherry Garden Avenue, Folkestone, CT19 5LB**

This item was withdrawn from the agenda in advance of the meeting.

### 53. **21/0926/FH 1 Cherry Garden Avenue, Folkestone, CT19 5LB**

This item was withdrawn from the agenda in advance of the meeting.

54. **21/1172/FH Seven Acre Field, St Mary in the Marsh, Romney Marsh**

Residential development for 4 dwellings.

Cllr Tillson spoke on behalf of St Mary in the Marsh Parish Council.

Proposed by Councillor David Wimble  
Seconded by Councillor Mr Jenny Hollingsbee and

**Resolved: That the application be deferred to enable the applicant to provide information to demonstrate a need for affordable housing in the village, and for submission of a s.106 legal agreement to secure the properties as affordable housing for local people.**

(Voting: For 6; Against 4; Abstentions 0)

55. **20/1570/FH 60 High Street, New Romney, TN28 8AU**

Section 73 application for removal/variation of condition 3 (opening hours) of planning application Y18/1527/FH (Change of use of ground floor to create a bar/restaurant unit (use class A3/A4) and a retail unit (use class A1) together with the erection of a first floor extension to create an additional 3 flats (4 in total)) to amend the opening hours of the bar/restaurant.

Members were informed that New Romney Town Council had raised an objection in respect of policy SD1, they were informed that does not apply to this application.

Proposed by Councillor Mrs Jenny Hollingsbee  
Seconded by Councillor Danny Brook and

**Resolved: That planning permission be granted subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.**

(Voting: For 10; Against 0; Abstentions 0)

56. **21/1177/FH 63-67 Cheriton High Street, Folkestone, CT19 4HA**

Proposed conversion of existing vacant ground floor office suite, into two self-contained one-bedroomed flats, including minor external alterations.

Proposed by Councillor Georgina Treloar  
Seconded by Councillor Philip Martin and

**Resolved: That planning permission be granted subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.**

(Voting: For 8; Against 0; Abstentions 2)

57. **Y19/0049/FH Land rear Varne Boat Club, Coast Drive, Greatstone**

Reserved matters application relating to appearance and landscaping being details pursuant to outline application Y15/1132/SH (Outline application for the erection of four detached dwellings) for the erection of 4no. three storey detached dwelling houses with associated parking.

Proposed by Councillor David Wimble  
Seconded by Councillor Mrs Jenny Hollingsbee and

**Resolved: That planning permission be granted subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.**

(Voting: For 5; Against 4; Abstentions 1)

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# Minutes

## Licensing Sub-Committee

Held at: Council Chamber - Civic Centre Folkestone

Date Thursday, 2 December 2021

Present Councillors John Collier, Gary Fuller and  
Mrs Jennifer Hollingsbee

Apologies for Absence

Officers Present: Tim Hixon (Legal Specialist), Sue Lewis (Committee Services Officer) and Briony Williamson (Licensing Specialist)

Others Present:

### 18. Election of Chairman for the meeting

Proposed by Councillor John Collier  
Seconded by Councillor Gary Fuller and

**Resolved:**

**That Councillor Mrs Jenny Hollingsbee is appointed Chairman for the meeting.**

(Voting: For 3; Against 0; Abstentions 0)

### 19. Declarations of interest

There were no declarations of interest.

### 20. Exclusion of the public

**Resolved:**

**To exclude the public for the following item of business on the grounds that it is likely to disclose exempt information, as defined in paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972 –**

**‘Information relating to any individual.’**

21. **Review of whether a licence should be granted to a new Private Hire driver.**

Report DCL/21/39 considers whether a licence should be granted to a New Private Hire driver.

Proposed by Councillor Gary Fuller  
Seconded by Councillor John Collier and

**Resolved:**

1. **To receive and note Report DCL/21/39.**
2. **To grant a Private Hire driver's licence subject to the applicant completing the Disability Awareness training for Taxi and Private Hire driver's course and providing a certificate to that effect within 28 days of completing the course to the Council.**

(Voting: For 3; Against 0; Abstentions 0)

22. **Review of whether any action should be taken against a Hackney Carriage driver's licence**

Report DCL/21/40 is a review of whether any action should be taken against a Hackney Carriage driver's licence.

Proposed by Councillor John Collier  
Seconded by Councillor Gary Fuller and

**Resolved:**

1. **To receive and note Report DCL/21/40.**
2. **To not revoke the licence.**
3. **To continue the renewal process subject to receiving at least 3 appropriate references in support of the applicant.**

(Voting: For 3; Against 0; Abstentions 0)

This Report will be made public on 17 January 2022



Report Number **DCL/21/44**

**To:** Planning and Licensing Committee  
**Date:** 25 January 2022  
**Status:** Non-Executive Decision  
**Responsible Officer:** Ewan Green - Director of Place

**SUBJECT:** Gambling Act 2005 – Update to the Statement of Principles

**SUMMARY:** Gambling Act 2005 requires the council, in its role as the local licensing authority, to prepare a Statement of Principles related to the exercise of its licensing functions. This Statement of Principles must be reviewed every three years. The current statement runs until April 2022. The Statement of Principles has been reviewed updated to cover the next three year period from 2022 to 2025. This report seeks approval from the Planning & Licensing Committee to publish the updated draft statement for public consultation.

**RECOMMENDATIONS:**

1. To receive and note report DCL/21/44.
2. To agree the draft revised Gambling Statement of Principles for 2022-2025 to be published for public consultation for a six week period.
3. To delegate the Director of Place to approve any minor amendments to the Policy as a result of the consultation, before being presented to Full Council for approval and adoption.

## **1. BACKGROUND**

1.1. Gambling activities (except the national lottery) are regulated by the Gambling Act 2005. The council is the local licensing authority for the purposes of the Act.

Its main functions are: -

- The grant of premises licences where gambling activities take place (including betting shops, bingo premises, betting tracks, adult gaming centres and family entertainment centres).
- Issuing permits for gaming machines and receiving notifications of use of gaming machines in premises licenced under Licensing Act 2003.
- Local enforcement of the Gambling Act 2005.

1.2. Within the district, there are currently: -

- 7 Betting Shops
- 4 Bingo premises
- 3 Family Entertainment Centres
- 4 Adult Gaming Centres
- 11 premises with gaming machine permits (including 2 unlicensed family centres)
- 44 premises licensed under the Licensing Act 2003, who have given notice of use of up to 2 gaming machines.

1.3. The Gambling Act 2005 requires the council, in its role as a licensing authority, to prepare a Statement of Principles related to the exercise of its licensing functions. The scope and content of the Statement of Principles is largely determined by the Gambling Act 2005 and guidance from the Gambling Commission.

1.4. The Statement of Principles must be reviewed every three years. The current statement was last updated in 2019 and runs until April 2022. The Statement of Principles has now been reviewed for the next three year period 2022 to 2025. A copy of the draft Statement of Principles is attached (Appendix 1).

1.5. Since the last review and the impact of the pandemic lockdowns much of the attention given to problem gambling and gambling addiction has focused on online betting and gaming websites, which are regulated directly by the Gambling Commission. However, studies (e.g. NHS) continue to identify 'in person' gambling particularly use of gaming machines as a 'pathway' risk to problem gambling.

## **2. THE DRAFT STATEMENT**

2.1. The statement has been reviewed and updated based on current guidance from the Gambling Commission. There have been only minor changes to the guidance since the last review in 2019.



Main changes are as follows: -

- General update of references and area descriptions.
- Gambling Prevalence Statistics (p15) updated with the latest NHS study 2019.
- Clarification of the meaning of 'available for use' for access to gaming machine (p29).
- Update on the limits on the number of Category B gaming machines (p29, p32, p37-p38).

### 3. CONSULTATION

3.1. A consultation period of 6 weeks is proposed running from 26 January 2021 to 9 March 2021 inclusive. Consultation will be undertaken with: -

- Responsible Authorities (listed in the draft statement)
- Town and Parish Councils
- Operators of Premise Licences and gaming machine permit holders in the District
- Gamble Aware
- Association of British Bookmakers
- British Amusement Catering Trade Association
- Office for Health Improvement and Disparities (formerly Public Health England)

3.2. The draft statement will also be published on the council website with an invitation to submit relevant comments.

3.3. Following consultation, it is proposed that delegated authority be given to the Director of Place to make any minor amendments to the policy where needed. The draft policy will then be reported to Full Council for adoption.

3.4. Consultation responses requesting substantive changes to the statement that are not contrary to the Gambling Act 2005 or guidance issued by the Gambling Commission will be referred back to the Planning & Licensing Committee.

### 4. RISK MANAGEMENT ISSUES

4.1 The following risks are reported -

Perceived risk	Seriousness	Likelihood	Preventative action
Statement is contrary to the Gambling Act 2005	High	Low	Statement is drafted based on template and content as advised by the Gambling Commission.
	High	Low	

Lack of consultation with public and statutory consultees			Consultation exercised proposed.
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## 5. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

### 5.1. Legal Officer's Comments (NM)

S349 of the Gambling Act 2005 requires that, every three years, licensing authorities prepare and publish the principles that they propose to apply in exercising their functions under this Act. Failure to do so would mean that the Council is failing in its statutory duty.

### 7.2 Finance Officer's Comments (TM)

There is no finance implications relating to this report.

### 7.3 Diversities and Equalities Implications (AR)

No equalities implications. The statement considers the protection of vulnerable persons and children as well as the impact of problem gambling.

## 6. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting

Briony Williamson, Licensing Specialist  
 Telephone: 01303 853475  
 Email: [briony.williamson@folkestone-hythe.gov.uk](mailto:briony.williamson@folkestone-hythe.gov.uk)

The following background documents have been relied upon in the preparation of this report:

### Appendices:

Appendix 1 – Folkestone & Hythe District Council - Draft Statement of Principles under the Gambling Act 2005 for the period 2022-2025

**Folkestone & Hythe District Council**

# **STATEMENT OF PRINCIPLES FOR GAMBLING**

**Under Section 349 Of The Gambling Act 2005**

**Effective April 2022 – April 2025**

# Folkestone & Hythe District Council Statement of Principles for Gambling

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## Foreword

# Folkestone and Hythe District Council Statement of Principles for Gambling

This is the sixth edition of Folkestone and Hythe District Council's Statement of Principles for Gambling under the Gambling Act 2005. This edition has been comprehensively revised to reflect clearly the expectations of Folkestone and Hythe District Council in its role as a Licensing Authority.

We are required under the Gambling Act 2005 to produce a new policy on our approach to premises used for gambling every three years.

This Statement of Principles endeavours to carefully balance the interests of those who provide facilities for gambling and people who live, work in, and visit the Folkestone and Hythe district. Its focus is to aim to permit gambling, as required by section 153 of the Gambling Act 2005, in so far as it is (a) in accordance with the Gambling Commission's Licence Conditions and Codes of Practice; (b) in accordance with the Gambling Commission's Guidance to Licensing Authorities that is in effect at the time the application is considered; (c) reasonably consistent with the licensing objectives and (d) in accordance with this Statement of Principles. The three licensing objectives are:

1. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
2. Ensuring that gambling is conducted in a fair and open way;
3. Protecting children and other vulnerable persons from being harmed or exploited by gambling.

# Chapter One

## Introduction and Overview

This Policy document includes the Statement of Principles for Gambling of the Folkestone & Hythe District Council effective from 12 April 2022.

### Definitions Used in this Policy

**‘the Act’** means the Gambling Act 2005

**‘the Council’** means Folkestone & Hythe District Council

**‘the Commission’** means the Gambling Commission established under the Gambling Act of 2005

**‘the Guidance’** means the Guidance to Licensing Authorities published by the Gambling Commission

**‘Licensing Authority’** means Folkestone & Hythe District Council

**‘Licensing Committee’** refers to the committee of the Folkestone & Hythe District Council that considers licensing matters (Planning and Licensing Committee)

**‘licensable activities’** means those activities that are required to be licensed by the Council under the Gambling Act 2005

**‘Licensing Sub Committee’** refers to a Sub Committee of the Licensing Committee to consider licence applications

**‘relevant representations’** means a representation conforming to the legal requirements of the Gambling Act 2005

**‘Regulations’** refers to Regulations under the Gambling Act 2005 issued by the Secretary of State

**‘responsible authority’** means the bodies designated under the Gambling Act 2005 and described in the Introduction to this Statement of Principles

**‘the Statement’** refers to this Statement of Principles for Gambling

### Introduction

1. Under Section 349 of the Gambling Act 2005, the Council is required to publish a Statement of Principles it proposes to apply when exercising its functions under the Act. The form of the Statement of Principles is set out in the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2007 and further guidance on what should be contained in the Statement of Principles can be found in the Gambling Commission’s Guidance to Licensing Authorities.
2. The Licensing Authority is required by virtue of section 153 of the Gambling Act 2005 to aim to permit gambling in so far as it is (a) in accordance with the Gambling Commission’s Licence Conditions and Codes of Practice; (b) in accordance with the Gambling Commission’s Guidance to Licensing Authorities that is in effect at the time the application is considered; (c) reasonably consistent with the licensing objectives and (d) in accordance with this Statement of Principles.

3. The Gambling Commission issues Licence Conditions and Codes of Practice for gambling operators. Social Responsibility Codes have the force of a licence condition. The Gambling Commission also issue Ordinary Codes, which set out best industry practice. They are not licence conditions, but operators are expected to follow them unless they have alternative arrangements in place which they can demonstrate are equally as effective.
4. The Licensing Authority, when carrying out inspections of gambling operators, reserves the right to assess compliance with such matters set out in the Gambling Commission's Licence Conditions and Codes of Practice as it sees fit, and will share intelligence with the Gambling Commission about any issues of non-compliance in this respect.
5. The licensing objectives under the Gambling Act 2005 are:
  - Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
  - Ensuring that gambling is conducted in a fair and open way;
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
6. The Council consulted widely upon this revised Statement of Principles from 26 January 2021 to 9 March 2021 . A list of persons consulted on the revised Statement can be found at Appendix One.
7. The Act requires the following to be consulted in the revision of the statement:
  - the Chief Officer of Police for the authority's area;
  - people and bodies representing the interests of persons in gambling businesses in the area;
  - people and bodies who represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act.
8. Nothing in this Statement of Principles overrides the right of any person to make an application, make representations about an application or apply for a review of a licence. Each will be considered on its own merits and in accordance with the statutory requirements of the Act.
9. In reviewing this Statement of Principles, the Council has had regard to the licensing objectives under the Gambling Act 2005, the Guidance to Licensing Authorities issued by the Gambling Commission and to the responses arising from our consultation.



## Responsible Authorities

10. The Council is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm.

The principles are:

- the need for the body to be responsible for an area covering the whole of the Council's area; and
  - the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.
11. The Council designates Kent County Council Social Services to advise on the protection of children from harm under the Gambling Act 2005.
12. The full list of Responsible Authorities for Folkestone and Hythe District Council are as follows:

**Chief Constable**

Kent Police Headquarters  
Sutton Road  
Maidstone  
ME15 9BZ

**Kent Fire & Rescue Service**

South Kent Group Fire Safety Office  
Park Farm Road  
Folkestone  
CT19 5LT

**Environmental Protection Team**

Folkestone & Hythe District Council  
Castle Hill Avenue  
Folkestone  
Ct20 2QY

**Licensing Team**

Folkestone & Hythe District Council  
Castle Hill Avenue  
Folkestone  
CT20 2QY  
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**Health & Safety Team**

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**The Gambling Commission**

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Victoria Square  
Birmingham B2 4PB  
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## Interested Parties

13. Interested parties are persons who may make representations to applications or apply to the Council for the review of an existing licence. These parties are defined in section 158 of the Act as a person who:
  - (a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
  - (b) has business interests that might be affected by the authorised activities, or
  - (c) represents persons who satisfy paragraph (a) or (b).
14. When determining whether a person is an interested party for the purposes of the Act, the Licensing Authority will not apply rigid rules but will treat each case on its merits.
15. In considering whether a person lives sufficiently close to a premises to be considered to be an interested party the following matters will be taken into account:
  - the size of the premises
  - the nature of the premises
  - the distance of the premises from the home or workplace of the person making the representation
  - the potential impact of the premises (numbers of customers, routes likely to be taken by those visiting the premises)
  - the circumstances of the person and nature of their interests, which may be relevant to the distance from the premises.
16. In determining whether a person or organisation "has business interests" the Licensing Authority will adopt the widest possible interpretation and include trade associations, trade unions, partnerships, charities, faith groups, voluntary organisations such as hostels and medical practices, bodies for Gambling Addiction, as appropriate.
17. The Licensing Authority will regard bodies such as trade associations, trade unions, residents' and tenants' associations and professional advisors such as solicitors, barristers and consultants as capable of representing interested parties where they are satisfied that the interested party has asked for representation. The Licensing Authority will only regard representative bodies as interested parties in their own right if they have a member who can be classed as an interested person under the terms of the Act.
18. In principle, the Licensing Authority will allow any person to represent an interested party but will seek confirmation that the person genuinely represents the interested party. We will generally require evidence that a person/body (e.g. an advocate or relative) 'represents' an interested party. If persons representing interested parties are Councillors or Members of Parliament, then no specific evidence of being asked to represent an

interested person will be required so long as they represent the area likely to be affected.

19. If individuals wish to approach Councillors to ask them to represent their views those Councillors shall not sit on a Licensing Sub-Committee that meets to determine the licence application. If there are any doubts then either interested parties or Councillors should contact the Licensing Authority for advice.

## Geographical Area Covered by this Statement of Principles

20. A map showing the geographical area covered by this Statement of Principles can be viewed at Appendix Two.

## List of Bodies Consulted on this Statement of Principles

British Amusement Catering Trade Association (BACTA)  
Association of British Bookmakers  
Gamble Aware  
The Gambling Commission  
Kent County Council Public Health  
Office for Health Improvement and Disparities  
Operators of Betting Premises in Folkestone and Hythe District  
Operators of Adult Gaming Centres in Folkestone and Hythe District  
Operators of Family Entertainment Centres in Folkestone and Hythe District  
Operators of Bingo Premises in Folkestone and Hythe District  
Holders of Gaming Machine Permits in Folkestone and Hythe District  
Holders of Club Gaming Permits in Folkestone and Hythe District  
Holders of Club Machine Permits in Folkestone and Hythe District  
Folkestone and Hythe DC Ward Councillors  
Town and Parish Councils within the district

## Exchange of Information

21. The Council will act in accordance with the provisions of Section 350 of the Act in its exchange of information with the Gambling Commission.
22. Section 29 of the Gambling Act 2005 enables the Gambling Commission to require information from Licensing Authorities (including the manner in which it is compiled, collated and the form in which it is provided), provided that it:
  - forms part of a register maintained under the Gambling Act 2005;
  - is in the possession of the Licensing Authority in connection with a provision under the Gambling Act 2005.
23. Section 350 of the Gambling Act 2005 allows Licensing Authorities to exchange information with other persons or bodies for use in the exercise of functions under the Act. These persons or bodies are:
  - A constable or Police force

- An enforcement officer
  - A Licensing Authority
  - HMRC
  - The First Tier Tribunal
  - The Secretary of State
  - Scottish Ministers
24. Information requests from such parties should be made to the Licensing Authority in writing, setting out clearly what information is required and the reason the information is required. The requirements of the Data Protection Act 2018 will be complied with. Freedom of Information requests can be submitted online at:
- <https://www.folkestone-hythe.gov.uk/your-council/council-information/request-council-information>
25. The Licensing Authority will also have regard to Guidance issued by the Gambling Commission to local authorities as well as any relevant regulations issued by the Secretary of State under the powers provided for in the Act.

## Enforcement

26. The primary aim of enforcement is to achieve compliance. Though enforcement may be taken to mean the formal approach, it may also include advice and support to business to achieve compliance.
27. Inspections will be carried out on a risk basis. New premises, premises under new management, premises where complaints have been received or intelligence received relevant to the licensing objectives and premises or operators where compliance failings have been identified previously will be viewed as higher risk. Premises located in areas where there have been incidents of crime affecting or relating to gambling premises, or where the premises themselves have been the victims or involved in such crime, shall also be considered higher risk.
28. Compliance may be achieved through encouraging a sense of community, improved communication, and proactive work with licensees and businesses. Such proactive work may include project work, giving advice and information, and initiatives that educate, inform and encourage partners and stakeholders to work together efficiently and effectively. The principal objective in taking a holistic approach to managing the gambling industry is to prevent problems from occurring before they begin.
29. However, it is recognised that such aims cannot always be achieved, and that active enforcement of the law may be the only effective means of securing compliance. To this end the following enforcement options are available to the Licensing Authority:

- verbal or written advice
  - verbal warning
  - written warning
  - mediation between licensees and interested parties
  - licence review
  - simple caution
  - prosecution
30. These actions are not mutually exclusive and it may be that one course of action follows another, depending on the individual circumstances.
31. The Licensing Authority operates a partnership approach to dealing with enforcement matters concerning licensed premises. This may include working with the Police or any of the other responsible authorities under the Act, or working with colleagues from other Council departments or outside agencies.
32. The Kent & Medway Licensing Steering Group has formulated an Enforcement Protocol which each licensing authority and responsible authority has agreed. The purpose of the protocol is to facilitate co-operation and co-ordination between enforcement agencies and sets out general enforcement principles.
33. The Licensing Authority needs to be satisfied premises are being run in accordance with the provisions of the Act, the licensing objectives, the Licence Conditions and Codes of Practice issued by the Gambling Commission and any conditions attached to the Premises Licence. To achieve this, the Licensing Authority will inspect premises, look at gambling facilities, gaming machines and policies and procedures, meet with licence holders and carry out general monitoring of areas as necessary.
34. Inspection and enforcement under the Act will be based on the principles of risk assessment, a graduated response and the targeting of problem premises. The frequency of inspections will be determined on risk-based criteria with high risk operations receiving more attention than premises carrying lower risk.
35. Premises found to be fully compliant will attract a lower risk rating. Those where breaches are detected will attract a higher risk rating.
36. The Licensing Authority will take appropriate enforcement action against those responsible for unlicensed premises/activity. Action will be carried out in accordance with these enforcement principles.
37. Before deciding which course of action to take, the Licensing Authority shall consider the following matters:
- the history of the premises
  - the history of the offender
  - the offender's attitude
  - the circumstances of the offence
  - whether the offender has a statutory defence to the allegations

- the impact or potential impact of the breach on the public
  - the quality of the evidence against the offender
  - the likelihood of achieving success in a prosecution
  - the likely punishment that will be incurred if the case goes to Court
  - whether the course of action proposed is likely to act as a deterrent
  - whether the course of action, if it is publicised, is likely to have a beneficial effect on the behaviour of others
38. The Licensing Authority will operate within the principles of natural justice and take into account the Human Rights Act 1998. This includes, in particular:
- Every person is entitled to the peaceful enjoyment of his possessions – a licence is a possession in law and persons may not be deprived of their possessions except where it is in the public interest;
  - Every person is entitled to a fair hearing.
39. The Licensing Authority officers are committed to the principles of good regulation as set out in the Regulators Code. This means our inspection and enforcement activities will be carried out in a way that is:
- Proportionate: only intervening when necessary. Remedies will be appropriate to the risk posed, and costs identified and minimised;
  - Accountable: able to justify our decisions, and be subject to public scrutiny;
  - Consistent: implementing rules and standards fairly in a joined-up way;
  - Transparent: acting in open way, and keeping conditions placed on Premises Licences simple and user friendly; and
  - Targeted: focusing on the problems, and aiming to minimise the side effects.

## The Council's Functions

40. Councils, when acting as Licensing Authorities are required under the Act to:
- license premises where gambling activities are to take place by issuing Premises Licences
  - issue Provisional Statements
  - regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
  - issue Club Machine Permits to commercial clubs
  - grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
  - receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
  - issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
  - register small society lotteries below the prescribed thresholds

- issue Prize Gaming Permits
  - receive and endorse Temporary Use Notices
  - receive Occasional Use Notices for betting at tracks
  - provide information to the Gambling Commission regarding details of licences, permits and other permissions issued
  - Maintain registers of the permits and licences that are issued under these functions.
41. Councils are not involved in licensing online gambling, which is the responsibility of the Gambling Commission.

## Duplication with Other Regulatory Regimes

42. The Licensing Authority will seek to avoid duplication with other statutory and regulatory regimes where possible, including planning. The Licensing Authority will not consider planning permission or building regulations approval when making decisions under the Gambling Act. Nor will it regard the granting of a licence, permit or permission as fettering the Council's ability to consider planning applications independently on their planning merits.
43. Applicants should be aware that the granting of a Premises Licence does not permit the operator to provide gambling facilities where to do so would breach other legislative requirements such as the requirement for appropriate planning consent to be held. It is the operator's responsibility to ensure all relevant legal requirements are met and to seek their own independent legal advice.

## Gambling Prevalence and Problem Gambling

44. Research commissioned by the Gambling Commission as part of the Health Survey for England in 2018 (published 2019) found the following:
- 54% of people in England gambled in 2018
  - 40% of people in England (excluding those who had only played National Lottery draws) gambled in 2018
  - 0.5% of people in England identified as problem gamblers
  - 3.5 % of people in England were at low or moderate risk of developing problems with their gambling
45. Figures published by Public Health England in September 2021 estimated the prevalence of problem gambling as 3.8% of people in England.
46. Problem gambling can have a detrimental effect on personal finances as the attempt to chase losses becomes unmanageable. As well as spending wages, savings and spare cash, debts can also be a feature of problem gambling as a result of borrowings and loans to cover gambling losses. However, the effects



of problem gambling can cost more than money. Problem gamblers often say they feel isolated as a result of their solitary pursuits of chasing loses. There is a tendency to stay away from school, college or work in order to gamble. In addition, there is often a preoccupation with gambling, a lack of interest in maintaining relationships and a lack of motivation to engage in social activities. There is often reluctance amongst gamblers to spend money on items of clothing or household goods as this expenditure is often seen as funds for gambling. There can also be an unwillingness to pay utility bills as money would rather be used for gambling purposes.

47. Problem gambling can be progressive in nature and problem gamblers can end up engaging in criminal activity to fund their gambling. This can lead to lifelong consequences with criminal convictions.

## Chapter Two

### Welcome to Folkestone and Hythe District Council

This section gives a description of Folkestone and Hythe District

#### General Description

48. The council is situated in the County of Kent, which contains 12 district councils and one unitary authority.
49. Folkestone and Hythe District covers an area of 35,670 hectares (140 sq. miles) on the East Kent coast about 75 miles from London. It has a population of around 113,330 (2021) most of whom live in the Folkestone and Hythe urban area, but there are also towns at Sandgate, Sellindge, Hawkinge, Lydd and New Romney. The north of the district is mainly rural and includes the villages of Lyminge and Elham.
50. The District occupies a key strategic position between the United Kingdom and mainland Europe at the end of the M20 motorway and with the Channel Tunnel and Lydd Airport providing gateways to continental Europe.
51. Demographics of the population are that it is 94.7 % White and 5.3% Black & Minority Ethnic. . Folkestone and Hythe District has an older age profile with a higher proportion of residents in the working age group from 45 years to retirement compared to the rest of Kent and Medway while there is low representation of residents in younger working age groups.
52. Folkestone and Hythe District Council is comprised of 13 wards. The main centre of population is in Folkestone. Folkestone has a town centre with a shopping complex. The Council manages many parks and open spaces. These include the Coastal Park, Radnor Park and The Leas. There are 32 miles of coastline from Folkestone to Dungeness. The beaches attract many tourists in season.

## Chapter Three

### Licensing Objectives and Local Area Risk Assessments

53. The Gambling Act 2005 contains three licensing objectives. In this revision of its Statement of Principles, the Licensing Authority seeks to assist applicants by setting out the considerations we will apply when determining applications under the Act.
54. Though Licensing Authorities are required to 'aim to permit' gambling, there is wide scope for them to impose conditions on Premises Licences or to reject, review or revoke Premises Licences where there is an inherent conflict with the relevant Licence Conditions and Codes of Practice issued by the Gambling Commission, the Guidance to Licensing Authorities issued by the Gambling Commission, the licensing objectives or this Statement of Principles.
55. Licensing Authorities are able to request any information from an operator they may require to make licensing decisions. The Gambling Act 2005 requires a minimum level of information to be provided, but the Gambling Commission state in their Guidance to Licensing Authorities that this does not preclude reasonable requests from Licensing Authorities for any additional information they may require to satisfy themselves their decisions accord with the licensing objectives and Codes of Practice.

#### Risk Assessment

56. The Licensing Authority expects applicants to have a good understanding of the area in which they either operate, or intend to operate. The applicant will have to provide evidence that they meet the criteria set out in this Statement of Principles and demonstrate that in operating the premises they will promote the licensing objectives.
57. The Gambling Commission introduced a Social Responsibility Code of Practice (Doc Ref 10.1.1) requiring operators of premises used for gambling to conduct local area risk assessments and an Ordinary Code stating this should be shared with the Licensing Authority in certain circumstances from May 2016.
58. The Licensing Authority expects applicants for Premises Licences in its area to submit a risk assessment with their application when applying for a new premises licence, when applying for a variation to a premises licence or when changes in the local environment or the premises warrant a risk assessment to be conducted again.
59. The risk assessment should demonstrate the applicant has considered, as a minimum:
  - local crime statistics;
  - any problems in the area relating to gambling establishments such as anti-social behaviour or criminal damage;

- the location of any nearby sensitive premises, such as hostels and other facilities used by vulnerable persons e.g. drug and alcohol addictions;
  - whether there is a prevalence of street drinking in the area, which may increase the risk of vulnerable persons using the premises;
  - the type of gambling product or facility offered;
  - the layout of the premises;
  - the external presentation of the premises;
  - the location of nearby transport links and whether these are likely to be used by children or vulnerable persons;
  - the customer profile of the premises;
  - staffing levels;
  - staff training, knowledge and experience;
  - whether there is any indication of problems with young persons attempting to access adult gambling facilities in that type of gambling premises in the area.
60. It is recommended that operators liaise with other gambling operators in the area to identify risks and consult with any relevant responsible authorities as necessary.
61. This Statement of Principles does not preclude any application being made and every application will be decided on its individual merits, with the opportunity given for the applicant to show how potential concerns can be overcome.
62. The Licensing Authority expects applicants to keep a copy of the local area risk assessment on the licensed premises and to ensure that all staff have seen the risk assessment, have received training in respect of its content, and are able to produce the risk assessment on request by an authorised officer of the Council, the Police or the Gambling Commission.

## Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime

63. The Licensing Authority will consider whether the premises make, or are likely to make, a contribution to the levels of crime and disorder in an area and whether the applicant has demonstrated that he has, or intends to, implement sufficient controls to prevent the premises being a source of, and/or associated with crime or disorder, or being used to support crime, if the application is granted.
64. Where an area is known for high levels of crime (particularly crime associated with premises used for gambling), the Licensing Authority will consider whether gambling premises are suitable to be located there, and whether additional conditions may be necessary, such as the provision of CCTV, minimum levels of staffing and licensed door supervisors.

65. In terms of disorder, the Guidance to Licensing Authorities published by the Gambling Commission states, “Licensing Authorities should generally consider disorder as activity that is more serious and disruptive than mere nuisance. Factors to consider in determining whether a disturbance was serious enough to constitute disorder would include whether Police assistance was required and how threatening the behaviour was to those who could hear or see it. There is not a clear line between nuisance and disorder and the Licensing Authority should take the views of its lawyers before determining what action to take in circumstances in which disorder may be a factor”.
66. The Licensing Authority will consider whether the layout, lighting, staffing and fitting out of the premises have been designed so as to minimise conflict and opportunities for crime and disorder.
67. The Licensing Authority will consider whether sufficient management measures are proposed or are in place to prevent the premises being a source of, or associated with crime or disorder, or used to support crime either as a place of association or to avoid apprehension.

## Ensuring that gambling is conducted in a fair and open way

68. Though this licensing objective is primarily the responsibility of the Gambling Commission, the Licensing Authority will have a role in respect of the licensing of tracks (defined in section 121), where an Operator’s Licence from the Gambling Commission is not required. Matters to be taken into account will include:
  - whether the layout, lighting and fitting out of the premises have been designed so as to ensure gambling is conducted in a fair and open way.
  - whether sufficient management measures are proposed or are in place to ensure that gambling is conducted in a fair and open way.
  - whether the management and operation of the premises is open and transparent.
  - whether the operators of the premises have been or will be fully cooperative with enforcement agencies.
  - whether the operator has a transparent procedure in place for dealing with consumer complaints that are available to all customers and implemented where necessary.
  - whether gaming machines are compliant with Gambling Commission Technical Standards in respect of machine livery requirements such as clear display of stakes, prizes, machine category and RTP.
  - whether the terms and conditions on which gambling products and promotions are offered and rules are clear and readily available to customers.
  - whether the Gambling Commission’s Licence Conditions and Codes of Practice have been complied with.

## Protecting children and other vulnerable persons from being harmed or exploited by gambling

69. The Licensing Authority will consider the following when taking this licensing objective into account:
- whether the operator has a specific training programme for staff to ensure they are able to identify children and vulnerable people and take appropriate action to promote this objective to exclude them from the premises or parts of the premises;
  - if the premises is an adult only environment, whether the operator has taken effective measures to implement a proof of age scheme such as Think 21 to ensure no one under the age of 18 is admitted to the premises or restricted areas;
  - whether the layout, lighting and fitting out of the premises have been designed so as to not attract children and other vulnerable persons who might be harmed or exploited by gambling;
  - whether sufficient management measures are proposed or are in place to protect children and other vulnerable persons from being harmed or exploited by gambling;
  - whether any promotional material associated with the premises could encourage the use of the premises by children or young people;
  - whether the operator can produce a record of underage challenges and action taken to establish age and prevent underage persons from being able to gamble;
  - whether the premises are located near to facilities that may encourage their use by vulnerable people, such as hostels for those with mental illness and/or addiction problems.
70. The Licensing Authority expects applicants to consider the measures necessary to promote the licensing objective of protecting children and other vulnerable persons from being harmed or exploited by gambling. It is noted that neither the Act nor the Gambling Commission Guidance define the term 'vulnerable persons'. The Licensing Authority consider the term 'vulnerable persons' to include people who gamble more than they want to; people who gamble beyond their means and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, changes in circumstances such as bereavement, loss of employment or ill health or due to alcohol or drugs. This can cover anyone who, for physical or mental reasons, is unable to look after themselves or their finances.

## Chapter Four

### Premises Licences

71. Any person or business that wishes to offer gambling for which an Operating Licence from the Gambling Commission is required, and which is premises based, must apply to the Licensing Authority for a Premises Licence.
72. Premises Licences can authorise the provision of facilities on:
- (a) casino premises,
  - (b) bingo premises,
  - (c) betting premises including tracks and premises used by betting intermediaries,
  - (d) adult gaming centre premises, or
  - (e) family entertainment centres.
73. Matters the Licensing Authority may not take into account include:
- the expected demand for gambling premises in the area;
  - planning or building law restrictions;
  - moral or ethical objections to gambling as an activity;
  - dislike of gambling;
  - a general notion that gambling is undesirable.
74. All licences will be subject to mandatory and/or default conditions and conditions imposed by the Licensing Authority. The Licensing Authority may consider that conditions other than the mandatory or default conditions are necessary to ensure the premises are reasonably consistent with the licensing objectives, the Gambling Commission's Codes of Practice and this Statement of Principles.
75. The Licensing Authority will take decisions in accordance with the Gambling Commission's Guidance and Licence Conditions and Codes of Practice and will have regard to the advice which it issues from time to time. The Licensing Authority will monitor the operation of premises and report any potential breach of Operating Licence conditions to the Gambling Commission. Applicants for new Premises Licences or variations to existing ones should be clear that the premises are intended to be used for the primary gambling activity proposed. For example a betting Premises Licence application that has four gaming machines but no betting counter or associated betting facilities shown on the proposed plans would not be considered as offering the primary gambling activity in accordance with that indicated on the application.
76. The majority of Premises Licences will have mandatory and/or default conditions attached to the licence. The Licensing Authority can attach its own conditions to a Premises Licence if it believes this will promote the licensing objectives. Any conditions attached will be:

- relevant to the need to make the proposed building suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- relate to the scale and type of premises; and
- reasonable in all respects.

77. Certain matters set out in the Act may not be the subject of conditions. These are:

- conditions which make it impossible to comply with an Operating Licence
- conditions as to gaming machines that contradict the provisions in the Act
- conditions making activities, premises or parts of them operate as a membership club
- conditions on fees, winnings, stakes or prizes.

78. Conditions will be attached to individual licences on the basis of their merits. However, there will be a number of measures the Licensing Authority will commonly consider utilising in order to pursue the licensing objectives. These may include measures such as:

- the supervision of entrances;
- separation of gambling from non-gambling areas frequented by children;
- the supervision of gaming machines in premises not specifically for adult gambling and
- appropriate signage for adult only areas.

The Licensing Authority will expect the applicant to propose how the licensing objectives can be met effectively through the use of conditions.

## Split Premises

79. The Gambling Commission's Guidance states that a building can, in principle, be divided into more than one premises and be subject to more than one Premises Licence provided they are for different parts of the building, and the different parts of the building can reasonably be regarded as being different premises. An example is given of units within a shopping mall, where each unit is separate self-contained premises contained within one building. It is also possible for licensed premises to be located next to each other.

80. The Gambling Commission state they do 'not consider that areas of a building that are artificially separated, for example by ropes or moveable partitions, can properly be regarded as separate premises'.

81. Whether different parts of a building can be reasonably regarded as different premises will depend on the circumstances of the individual building and how any division is proposed. To agree to accept applications to grant or vary a licence for a building which has been divided, the Licensing Authority will need to be satisfied the premises are genuinely separate premises, and not an artificially created additional part of single premises.



82. In considering whether different areas of a building are genuinely separate premises the Licensing Authority will take into account factors which will include:
- whether there are separate registrations for business rates in place for each premises;
  - whether separate sets of staff work in the individual premises;
  - whether there is a separate cash desk/reception for each of the premises;
  - whether each premises has its own postal address;
  - whether the premises are owned or operated by the same person;
  - whether each of the premises can be accessed from a street or public passageway;
  - whether the premises can only be accessed from any other gambling premises.
83. When considering proposals to divide a building into separate premises, the Licensing Authority will also need to be satisfied that the form of separation between the premises is appropriate.
84. The separation between one premises and another must be clearly defined. Any barrier used to separate one premises from another must be permanent and constructed so the public cannot go from one premises to another.
85. It may be acceptable for staff working in adjacent premises to have access through barriers between premises. The applicant must demonstrate that in providing staff access there are suitable control measures in place that will ensure the safety and security of staff and will prevent the public from using the same access point to enter the other premises.
86. The Gambling Act 2005 (Mandatory and Default Conditions) Regulations 2007 restrict access to different types of licensed gambling premises. In considering proposals to divide a building into different premises, the Licensing Authority will have to be satisfied that proposals to divide buildings are compatible with the mandatory conditions relating to access between premises.
87. The Guidance at paragraph 7.22 states “There is no definition of ‘direct access’ in the Act or Regulations, but Licensing Authorities may consider that there should be an area separating the premises concerned (for example a street or café), which the public go to for purposes other than gambling, for there to be shown to be no direct access.”
88. It is the Licensing Authority’s opinion that any area which separates licensed premises, and from which those premises can be accessed, must be genuinely separate premises which are habitually and actually used by members of the public other than those using the licensed premises.
89. The Licensing Authority does not consider that provisions which prohibit direct access between licensed premises are satisfied where licensed premises are

separated by an area created artificially within a building principally for members of the public attending the licensed premises, irrespective of whether this area is unlicensed or provides non-gambling facilities, for example refreshments or cashpoint machines.

90. Where the Licensing Authority is satisfied that a building can be divided into separate premises it will expect applicants to ensure that:
- the premises are configured so that children are not invited to participate in, have accidental access to, or closely observe gambling to which they are prohibited from taking part;
  - the premises are not configured so children are likely to enter an adult only area to join a parent gambling in that adult only area,
  - entrances and exits from parts of a building covered by one or more Premises Licences are separate and identifiable so the separation of different premises is not compromised and people do not ‘drift’ into a gambling area. In this context it should be possible to access the premises without going through another licensed premises or premises with a permit;
  - customers should be able to participate in the activity named on the Premises Licence.

This is not an exhaustive list and the Licensing Authority will consider other aspects based on the merits of the application.

## Access to Premises

91. The Gambling Act 2005 (Mandatory and Default Conditions) Regulations set out access provisions for each type of licensed gambling premises. The broad principle is there can be no direct access from one licensed gambling premises to another, except between premises which allow those aged under-18 to enter and with the further exception that licensed betting premises may be accessed via other licensed betting premises.
92. ‘Direct access’ is not defined, but the Licensing Authority will consider there should be an area such as a street or café to which the public attend for purposes other than gambling for there to be no direct access.

<b>Type of Premises</b>	<b>Access Provisions</b>
Casino	<ul style="list-style-type: none"> <li>• The principal access to the premises must be from a ‘street’;</li> <li>• No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons;</li> <li>• No customer must be able to access a casino directly from any other premises which holds a gambling premises licence.</li> </ul>

Adult Gaming Centre	<ul style="list-style-type: none"> <li>No customer must be able to access the premises directly from any other licensed gambling premises.</li> </ul>
Betting Shop	<ul style="list-style-type: none"> <li>Access must be from a 'street' or from other premises with a betting licence;</li> <li>No direct access is permitted from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be any entrance to a betting shop from a shop of any kind unless that shop is in itself a licensed betting premises.</li> </ul>
Track	<ul style="list-style-type: none"> <li>No customer must be able to access the premises directly from a casino or Adult Gaming Centre.</li> </ul>
Bingo Premises	<ul style="list-style-type: none"> <li>No customer must be able to access the premises directly from a casino, an Adult Gaming Centre or a betting premises, other than a track.</li> </ul>
Family Entertainment Centre	<ul style="list-style-type: none"> <li>No customer must be able to access the premises directly from a casino, an Adult Gaming Centre or a betting premises, other than a track.</li> </ul>

## Plans

93. The Gambling Act 2005 (Premises Licences and Provisional Statements) Regulations 2007 state that a plan to accompany an application for a Premises Licence must show:

- the extent of the boundary or perimeter of the premises
- where the premises include, or consist of, one or more buildings, the location of any external or internal walls of each such building
- where the premises forms part of a building, the location of any external or internal walls of the building which are included in the premises
- where the premises are a vessel or a part of a vessel, the location of any part of the sides of the vessel, and of any internal walls of the vessel which are included in the premises
- the location of each point of entry to and exit from the premises, including in each case a description of the place from which entry is made or to which exit leads.

94. The Regulations also state that other than in respect of a track, the plan must show 'the location and extent of any part of the premises which will be used to provide facilities for gambling in reliance on the licence'. The Licensing Authority may, however, consider that these minimum requirements are insufficient to satisfy them in respect of the licensing objectives at tracks, Gambling Commission Guidance, Codes of Practice or its own Statement of Principles. In such cases, the Licensing Authority may ask for such additional information to be shown on the plan as it deems necessary to enable it to

discharge its duties effectively. Information shown on the plan that is not required by Regulations will not form part of the Premises Licence and will only be used by the Licensing Authority to help it make a considered decision on the application.

95. If plans change in any material respect during the lifetime of the licence, the applicant will be in breach of their licence and would either need to make a fresh application under s.159 or to seek an amendment to the licence under s.187 of the Gambling Act 2005. If the changes are substantial, this may, in the opinion of the Licensing Authority, render the premises different to those to which the licence was granted. In such cases, variation of the licence under s.187 would not be possible and an application for a new application would be required under s.159.

## General Requirements for All Premises

96. The Licensing Authority expects all applicants for gambling Premises Licences to ensure there is adequate provision for staff to supervise persons using the licensed premises. This is to identify those who have self-excluded, vulnerable persons, under age persons, persons gambling beyond limits they have set for themselves, person who may be involved in crime, persons who may be prone to anti-social behaviour, persons who are drinking alcohol where this is prohibited and persons who are showing signs of distress in respect of their gambling.
97. Applicants must take the structure and layout of the premises into account when considering their own policies and procedures. For example, where it is not possible for counter staff to supervise persons using gambling facilities such as gaming machines, the Licensing Authority would expect applicants to volunteer conditions that floor walkers will be used or that counter staff will be able to view all areas of the premises on CCTV provided to the counter area where it can be clearly seen.
98. Arrangements must be made for how staff will deal with customers who become aggressive and for ejecting patrons who are, for example, self-excluded, vulnerable or under age. This will include staff training and ensuring there are appropriate numbers of staff to deal with problems.
99. Staff should be in a position to monitor entrances and gaming machines and challenges should be initiated at the earliest opportunity.
100. Where access to premises is age restricted, the Licensing Authority expects applicants to have a Think 21 policy in place and to train its staff in recognising acceptable forms of identification. Posters should also be displayed stating that the relevant policy is in place and that users may be challenged.
101. Licence holders should record details of persons who have self-excluded, persons who have been ejected or refused admission, persons who have been barred by the operator, and any instances of crime or disorder that occurs on, or in association with, the licensed premises.

102. Applicants should demonstrate how they will identify self-excluded persons.
103. Where applicable, operators shall be able to demonstrate they are participating effectively in the relevant multi-operator self-exclusion scheme.
104. Section 242 of the Gambling Act 2005 makes it an offence for a person to make a gaming machine available for use, where they do not hold an operating licence or other permission covering gaming machines and where no other exemption applies. The Act does not define what ‘available for use’ means, but the Commission considers that a gaming machine is ‘available for use’ if a person can take steps to play it without the assistance of the operator. The Gambling Commission provides further guidance - <https://www.gamblingcommission.gov.uk/licensees-and-businesses/guide/when-a-machine-is-available-for-use>

## Casinos

105. There are currently no licensed casinos in the district and permission has not been granted for any.

## Bingo

106. This policy applies to applications for a Bingo Premises Licence. Bingo has its ordinary and natural meaning and includes any version of the game irrespective of by what name it is described. A holder of a bingo Premises Licence will be able to offer bingo in all its forms.
107. Children and young persons are permitted in bingo premises, but may not participate in the bingo. If any Category B or C machines are made available for use, these must be separated from areas where children and young people are allowed.
108. Section 172(7) of the Gambling Act 2005 as amended, provides that the holder of a bingo premises licence may make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines on the premises. For example, a premises with a total of 25 gaming machines available for use can make five or fewer category B3 gaming machines available on that premises. Premises that were licensed before 13 July 2011 are entitled to make available eight category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. There are no restrictions on the number of category C or D machines that can be made available. Regulations state that category B machines at bingo premises are restricted to sub-category B3 (SI 2007/2158: [Categories of Gaming Machine Regulations 2007 \(opens in new tab\)](#)) (but not B3A) and B4 machines. Licensing authorities should ensure that gambling machines are made available for use in a manner consistent with our guidance within Part 16. For the purpose of calculating the category B machine entitlement in gambling premises, gaming machines should only be counted if they can be played simultaneously by different players without physical hindrance. This includes tablets.

109. The Licensing Authority expects that where children are permitted in bingo premises, any Category B or C machines are located in an area which is separated from the rest of the premises by barriers or in a separate room, where it is made clear that entry is permitted only for those aged 18 or over. Appropriate signage should be provided to this effect and the area should be monitored by staff, either through direct supervision or by monitored CCTV.
110. To avoid a situation where a premises holds a bingo Premises Licence primarily to benefit from the gaming machine allowance, the Licensing Authority will need to be satisfied that bingo is regularly played in any premises for which a Premises Licence is issued and that the premises presentation is clearly that of a bingo premises and readily identifiable as such to any customer using the premises.
111. In determining applications for bingo premises, the Licensing Authority shall consider the following:
- proof of age schemes
  - CCTV
  - entry control system
  - staff numbers
  - staff training
  - supervision of entrances/ machine areas
  - whether children are permitted on the premises and, if so, how the operator intends to prevent them from playing bingo or being able to access adult only machine areas
  - notices/ signage
  - opening hours
  - the times and frequency of which bingo is offered
  - whether bingo is offered by a caller or only electronically
  - whether the premises are clearly identifiable as being licensed for the purposes of offering bingo facilities
  - provision of responsible gambling information

This list is not exhaustive, and is merely indicative of example measures the Licensing Authority will expect applicants to offer to meet the licensing objectives.

112. Young persons, aged 16 and 17, may be employed in bingo premises provided their duties are not connected with the gaming or gaming machines. The Licensing Authority will not grant licences unless the applicant demonstrates how they intend to meet this licensing objective and identify appropriate measures they will take to protect young employees.
113. Where hand held gaming devices are to be used on bingo premises, the Licensing Authority expects applicants to demonstrate how use of these devices will be monitored by staff.

## Betting Premises

114. This policy applies to applications for off-course betting premises. This is betting that takes place other than at a track, typically in a betting shop.
115. The Licensing Authority must be satisfied that the primary use of the premises is to operate as betting premises. The applicant will be expected to demonstrate they are offering sufficient facilities for betting or otherwise should not make gaming machines available on the premises.
116. In determining applications for betting premises, the Licensing Authority shall consider the following:
- proof of age schemes
  - CCTV
  - entry control system
  - staff numbers
  - staff training
  - counter layout
  - supervision of entrances/ machine areas
  - machine privacy screens
  - notices/ signage
  - opening hours
  - provision of responsible gambling information

This list is not exhaustive, and is merely indicative of example measures the Licensing Authority will expect applicants to offer to meet the licensing objectives.

117. Betting machines made available at betting premises that accept bets on live events such as horse racing (SSBT's or self-service betting terminals) are not gaming machines and therefore do not count towards the total number of gaming machines that may be permitted at betting premises. However, where a machine is made available to take bets on 'virtual' races (e.g. results/images generated by a computer to resemble a real race or event), that IS a gaming machine and counts towards the maximum permitted number of gaming machines, and is subject to the relevant statutory limits on stakes and prizes.
118. Section 181 of the Gambling Act 2005 permits the Licensing Authority to restrict the number of SSBT's, their nature and the circumstances in which they may be made available by attaching a relevant condition to a Premises Licence for a betting office. When considering whether to do so, the Licensing Authority will consider, among other things, the ability of employees to monitor the use of the machines by children and young persons or by vulnerable people.
119. The Licensing Authority when considering the number, nature and circumstances of self-service betting terminals an operator wants to offer will take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines. Section 172(8) of the Gambling Act 2005 provides that

the holder of a betting premises licence may make available for use up to four gaming machines of category B, C or D. Regulations state that category B machines at betting premises are restricted to sub-category B2, B3 and B4 machines (the terminals commonly in use are able to provide both B2 and B3 content).

120. Where an SSBT includes functionality to be marketed or presented in languages other than English, the Licensing Authority will seek to ensure the operator has considered the ordinary code provision set by the Gambling Commission about making the following information also available in the relevant languages:
- information on how to gamble responsibly and access the help referred to in the Gambling Commission's Licence Conditions and Codes of Practice;
  - the player's guide to any game, bet or lottery under the provisions of the Gambling Commission's Licence Conditions and Codes of Practice;
  - the summary of the contractual terms on which gambling is offered, which is a condition of the licence holder's Operating Licence issued by the Gambling Commission.

## Betting Tracks and Other Sporting Venues

121. Tracks include premises where a race or other sporting event takes place, or is intended to take place. These may be subject to one or more than one Premises Licence, provided each licence relates to a specified area of the track. The Gambling Commission Guidance identifies that operators of track betting premises will not necessarily hold an Operating Licence issued by the Commission. The Licensing Authority will have particular regard to proposals and measures to ensure the environment in which betting takes place is suitable for betting and that betting is conducted in a fair and open way.
122. Examples of tracks include:
- Horse racecourses
  - Greyhound tracks
  - Point to point meetings
  - Football, cricket and rugby grounds
  - Athletics stadia
  - Golf courses
  - Venues hosting darts, bowls or snooker tournaments
  - Premises staging boxing matches
  - Sections of river hosting fishing competitions
  - Motor racing events
123. The offence of permitting a child or young person to enter gambling premises under section 47 of the Act does not apply to tracks. Therefore the Licensing Authority will consider the impact upon the objective of protection of children and vulnerable persons, the need to ensure that entrances to each type of licensed premises within the sporting venue are distinct, and that children are excluded from gambling areas which they are not permitted to enter.



124. The possibility of multiple licences at tracks is noted in Part 20 of the Gambling Commission Guidance. The Licensing Authority will expect the applicant for a Premises Licence to demonstrate suitable measures to ensure that children do not have access to adult-only gaming facilities. Children and young persons are permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but are still prevented from entering areas where gaming machines (other than Category D machines) are provided. Children and young persons are not prohibited from playing Category D machines on a track.
125. In determining applications for betting at tracks, consideration will be given to appropriate measures/licensing conditions to address the matters listed below:
- proof of age schemes such as Think 21
  - CCTV
  - entry control system
  - supervision of entrances/ machine areas
  - physical separation of areas
  - notices/ signage
  - opening hours
  - provision of responsible gambling information
  - provision of policies and procedures in relation to social responsibility measures as set out below
  - staffing levels
  - staff training and records of staff training
  - recording of incidents such as underage challenges, customer interactions for problem gambling, self-exclusions and complaints and disputes relating to gambling
  - details of action to be taken where an on course bookmaker has breached their Gambling Commission Operating Licence conditions repeatedly, for example where children have been able to gamble.

This list is not exhaustive, and is merely indicative of example measures the Licensing Authority will expect applicants to offer to meet the licensing objectives.

126. Track betting operators must be able to demonstrate their adoption of socially responsible gambling policies and procedures. Such policies and procedures must ensure that track betting activities promote the licensing objectives of ensuring that gambling is conducted in a fair and open way and children and other vulnerable people are not harmed or exploited by gambling.
127. A track Premises Licence does not in itself entitle the holder to provide gaming machines. However, by virtue of section 172(9) of the Act, track owners who hold both a track Premises Licence AND a pool betting Operating Licence issued by the Gambling Commission (this currently only applies to greyhound tracks) may provide up to four Category B2 to D gaming machines on the track.

128. The Licensing Authority will consider the location of gaming machines at tracks, and applicants for track Premises Licences will need to demonstrate that, where the applicant holds or seeks a pool betting Operating Licence and is going to use their full entitlement to gaming machines, these machines are located in areas from which children are excluded. The applicant will be required to provide information as to what measures it will put in place around the gaming machines to ensure that children are excluded.
129. The Licensing Authority will expect applicants to include detailed plans for the track itself and the area that will be used for temporary “on-course” betting facilities (often known as the “betting ring”), pool betting, and any other proposed gambling facilities. Plans should make clear what is being sought for authorisation under the track betting Premises Licence and what, if any, other areas are to be subject to a separate application for a different type of Premises Licence. Any such plans must also contain the information prescribed by regulations.
130. In respect of staff training, the Licensing Authority would expect staff involved with the provision of gambling facilities at the track to be trained in social responsibility measures including, but not limited to, age verification, problem gambling indicators and action to be taken, self-exclusion, complaints procedures and money laundering indicators and action to be taken. Records of such training should be retained by the track management showing the subjects the staff member was trained in and the date training took place. These should be signed off by the staff member and training should be refreshed at least annually.
131. The Licensing Authority expects track operators to have policies and procedures in place to deal with age verification, self-exclusion, money laundering, complaints and disputes and problem gambling as a minimum and to ensure that all staff involved in the provision of gambling facilities are aware of these policies and procedures and have been trained in their implementation.
132. The Licensing Authority expects track management to ensure appropriate problem gambling information is provided commensurate to the size and layout of the premises. This should be in the form of posters and also leaflets which a customer can take away. Leaflets should be provided in areas where they can be taken away discreetly by the customer.
133. Section 152 of the Act permits tracks to be the subject of multiple Premises Licences.
134. Access between premises licensed for gambling and non-gambling areas will be considered carefully by the Licensing Authority for the following reasons:
  - To prevent operators from attempting to circumvent the Act by artificially sub-dividing premises and securing separate Premises Licences for its composite parts;
  - To ensure operators do not circumvent the regulations governing the maximum number of gaming machines that may be provided at specific

- premises;
- To ensure people who have entered premises to take part in one form of gambling are not exposed to another form of gambling;
- To ensure there is no direct access between gambling premises to which children have access and those which they are prohibited from entering;
- To ensure all gambling premises have publicly accessible entrances;
- To ensure gambling premises are not developed in 'back rooms' of other commercial premises.

## Adult Gaming Centres (AGC's)

135. Adult gaming centre (AGC) Premises Licences allow the holder of the licence to make gaming machines available for use on the premises. Persons operating an AGC must hold a relevant Operating Licence from the Gambling Commission and must seek a Premises Licence from the Licensing Authority. Gaming machines are a form of gambling attractive to children and AGC's may contain machines of a similar format to the Category D machines on which children are allowed to play. However, persons under the age of 18 are not permitted to enter an AGC.
136. Gaming machine provisions by premises are set out at Appendix A. Section 172(1) of the Gambling Act, as amended. This section provides that the holder of an AGC premises licence may make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises and any number of category C or D machines. For example, a premises with a total of 25 gaming machines available for use can make five or fewer category B3 gaming machines available on those premises.
137. Premises subject to a licence granted before 13 July 2011 are entitled to make available four category B3/B4 gaming machines, or 20% of the total number of gaming machines, whichever is the greater. AGC premises licences granted on or after 13 July 2011 are entitled to 20% of the total number of gaming machines only. Regulations specify that the category B machines should be restricted to sub-category B3 and B4 machines, but not B3A machines (S1 2158 [The Categories of Gaming Machine Regulations 2007 \(opens in new tab\)](#)). Licensing authorities should ensure that gambling machines are made available for use in a manner consistent with our guidance within [Part 16](#). For the purpose of calculating the category B machine entitlement in gambling premises, gaming machines should only be counted if they can be played simultaneously by different players without physical hindrance. This includes tablets.
138. Gaming machines provide opportunities for solitary play and immediate pay outs, and are therefore more likely to engender repetitive and excessive play. The Licensing Authority in considering Premises Licences for AGC's will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that

under 18 year olds are not attracted to, or gain access to, the premises. The [Social Responsibility Code Provision 3.5.6](#) requires that adult gaming centres must offer self-exclusion schemes to customers requesting such a facility. This is also a requirement under the Gambling Commission' Licence Conditions and Codes of Practice.

139. The Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives; however appropriate measures / licence conditions may cover issues such as:

- proof of age schemes
- CCTV
- entry control system
- supervision of entrances/ machine areas
- physical separation of areas
- notices/ signage
- opening hours
- staffing levels
- staff training
- provision of problem gambling information
- self-exclusion schemes

This list is not exhaustive, and is merely indicative of example measures the Licensing Authority will expect applicants to offer to meet the licensing objectives.

## Family Entertainment Centres (FEC's)

140. Generally, FEC's must be operated by a person or body having an Operating Licence from the Gambling Commission. Unlicensed Family Entertainment Centres do not require the operator to have a Gambling Commission Operator's Licence or Premises Licence from the Licensing Authority, but do need to have a gaming machine permit as set out in the section on Permits. Unlicensed Family Entertainment Centres may only be used to provide Category D gaming machines.

141. Gaming machines are a form of gambling which is attractive to children and licensed FEC's will contain both Category D machines on which they are allowed to play, and Category C machines on which they are not. Because gaming machines provide opportunities for solitary play and for immediate pay outs, they are more likely to engender repetitive and excessive play. The Licensing Authority, in considering applications for FEC Premises Licences, will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

142. The Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures/ licence conditions may cover issues such as:

- CCTV
- supervision of entrances/ machine areas
- physical separation of areas for Category C machines
- location of entry
- notices/ signage
- opening hours
- staffing levels
- staff training
- self-exclusion schemes
- provision of problem gambling information
- measures and training for dealing with children on the premises suspected of truanting.

This list is not exhaustive, and is merely indicative of example measures the Licensing Authority will expect applicants to offer to meet the licensing objectives.

143. The Licensing Authority expects applicants to demonstrate adequate separation between the area in which Category C gaming machines are made available and areas of the premises to which children may have access. This will include whether physical separation is provided, staff supervision, signage and layout and presentation of the premises as a minimum. Operators should be aware of the risk of children entering adult only areas to speak to a parent who may be gambling in that area for example and have appropriate controls in place to reduce the risk of this.

## Door Supervisors

144. The Gambling Commission Guidance advises that Licensing Authorities may consider whether there is a need for door supervision in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, but there can also be a need for supervision to stop premises becoming a source of crime. Door supervisors at casinos or bingo premises are not required to be registered by the Security Industry Authority (SIA) under the Private Security Industry Act 2001. Door supervisors not directly employed by a casino or bingo operator do however have to be SIA registered.

145. For betting offices and other premises, the operator and/or the Licensing Authority may decide that supervision of entrances or machines is appropriate in particular cases. The Licensing Authority will make door supervision a requirement where there is evidence, from the history of trading at the premises or in the area that the premises cannot be adequately supervised by counter staff or that problem customers cannot be dealt with effectively by counter staff alone and that door supervision is both necessary and proportionate.

## Provisional Statements

146. Following the grant of a provisional statement, no further representations from responsible authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances. In addition, the authority may refuse the Premises Licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
- (a) which could not have been raised by objectors at the provisional licence stage; or
  - (b) which in the authority's opinion reflect a change in the operator's circumstances.

## Reviews

147. Requests for a review of a Premises Licence can be made by interested parties or responsible authorities, including the Licensing Authority. However, it is for the Licensing Authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below:
- any relevant Code of Practice issued by the Gambling Commission;
  - any relevant guidance issued by the Gambling Commission;
  - the licensing objectives;
  - this Statement of Principles.
148. The Licensing Authority may reject an application for review if it thinks the grounds on which the review is sought:
- a) are not relevant to the relevant code of practice or guidance issued by the Gambling Commission, the licensing objectives or the Licensing Authority's statement of principles;
  - b) are frivolous;
  - c) are vexatious;
  - d) 'will certainly not' cause the Licensing Authority to revoke or suspend the licence or to remove, amend or attach conditions on the Premises Licence;
  - e) are substantially the same as grounds cited in a previous application relating to the same premises (the Licensing Authority will consider the length of time that has passed since the earlier application in deciding whether this is a reasonable reason to reject the review application);
  - f) are substantially the same as representations made at the time the application for the Premises Licence was considered. While the Licensing Authority will consider the length of time that has passed since the representations were made, it will not normally review a licence on the basis of the same arguments considered on the grant of the Premises Licence.
149. General objections to gambling as an activity are not likely to be considered relevant reasons for a review. Other examples of irrelevant considerations include demand for gambling premises, issues relating to planning, public

safety and traffic congestion.

150. The Licensing Authority can initiate a review of a particular Premises Licence, or any particular class of Premises Licence, for any reason it believes is appropriate. This includes reviewing a Premises Licence on the grounds that a Premises Licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.
151. The Licensing Authority may review any matter connected with the use made of a particular premises if it has reason to believe the Premises Licence conditions are not being observed, or for any other reason which gives it cause to believe a review may be appropriate.
152. A responsible authority or interested party may apply to the Licensing Authority to review a Premises Licence. Such reviews can be made in relation to, amongst other things if there are repeated incidents of crime and disorder associated with the premises or the gambling activity which the premises operator has failed to adequately address, where incidents that have adversely effected one or more licensing objectives have occurred at premises that could have been prevented if advice and guidance from a responsible authority had been heeded, or if the premises due to the activities being undertaken is either attracting children or people likely to be involved in crime and disorder.
153. As a review of a Premises Licence can lead to its revocation, the Licensing Authority will consider whether informal actions to ensure timely or immediate compliance have been exhausted prior to an application being made. The Licensing Authority accepts that an application for review may be appropriate without informal measures being taken, but will seek to establish that all options have been considered in determining review applications.

## Chapter Five

# Travelling Fairs and Permits

### Travelling Fairs

154. The Act defines a travelling fair as 'wholly or principally' providing amusements and they must be on a site that has been used for fairs for no more than 27 days per calendar year. Travelling fairs do not require a permit to provide gaming machines but must comply with legal requirements about the way the machines are operated.
155. It will fall to the Licensing Authority to decide whether, where Category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
156. The Licensing Authority will also consider whether the applicant falls within the statutory definition of a travelling fair. The 27 day statutory maximum for the land being used as a fair each calendar year applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. The Licensing Authority will keep a record of any travelling fairs that take place in Folkestone & Hythe District that offer gambling as an ancillary use to the fair. The Licensing Authority will ensure the 27 day statutory maximum for the land being used is not breached. The Licensing Authority will advise travelling fair operators if requested of the statutory time period remaining for the land they intend to use.

### Permits

157. Permits regulate gambling and the use of gaming machines in a premises which do not hold a Premises Licence. They are required when a premises provides gambling facilities but either the stakes are very low or gambling is not the main function of the premises.

The Licensing Authority is responsible for issuing the following permits:

- a) unlicensed family entertainment centre gaming machine permits;
  - b) alcohol licensed gaming machine permits;
  - c) prize gaming permits;
  - d) club gaming permits and club machine permits.
158. The Licensing Authority can only grant or reject an application for a permit and cannot attach conditions. Therefore, the Licensing Authority will consider a number of factors before determining an application for a permit to ensure that the permit holder and the premises are suitable for the proposed gambling activities.



## Unlicensed family entertainment centre gaming machine permits

159. This policy applies to those premises that are proposed to be used as Unlicensed Family Entertainment Centres (uFECs). uFECs are premises primarily used for making gaming machines available that offer only Category D gaming machines. An uFEC permit allows any number of these machines to be made available at the premises (subject to other considerations such as health and safety and fire regulations). Given that Category D machines have no age restrictions, these premises particularly appeal to children and young persons. Therefore, the Licensing Authority will give particular weight to matters relating to child protection issues.
160. The Licensing Authority will grant an application for a permit only if it is satisfied that the premises are used wholly or mainly for making gaming machines available for use, and following consultation with the Police.
161. The Licensing Authority will not grant uFEC permits where the premises are not primarily used for making gaming machines available for use in accordance with section 238 of the Gambling Act 2005. This will preclude granting permits to lobbies in shopping centres or motorway service areas for example.
162. In cases where an existing uFEC permit has been granted to premises not primarily used for making gaming machines available, the Licensing Authority shall refuse to renew such permits.
163. Applicants for uFEC permits are expected to provide a scale plan of the premises with their application showing:
  - The boundary of the building with any external or internal walls, entrances and exits to the building and any internal doorways where any category D gaming machines are positioned.
  - The location where any prize gaming will take place (including any seating and tables) and the area where any prizes will be displayed
  - The positioning and types of any other amusement machines or play areas on the premises
  - The location of any fixed or semi-fixed counters, booths or offices on the premises whereby staff monitor the customer floor area, the location of any ATM/cash machines or change machines.
  - the location of any fixed or temporary structures such as columns or pillars
  - The location and height of any stages in the premises; any steps, stairs, elevators, balconies or lifts in the premises
  - The location of any public toilets in the building.

In addition applicants will be required to provide the following supporting documents:

- Proof of age (a certified copy or sight of an original birth certificate, driving licence, or passport – all applicants for these permits must be aged 18 or over)
- Proof that the applicant has the right to occupy the premises. Acceptable evidence would be a copy of any lease, a copy of the property's deeds or a similar document
- An enhanced criminal record certificate. (this should be no greater than one month old.) This will be used to check that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act.)

164. The Licensing Authority will require applicants to demonstrate as a minimum:

- a full understanding of the maximum stakes and prizes of gambling that is permissible in unlicensed FECs;
- that problem gambling information will be provided in the premises commensurate with its size and layout;
- that the applicant has a written policy in place to deal with complaints and disputes which can be given to a customer on request;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act)
- that staff are trained to recognise problem gambling and signpost a customer to problem gambling information;
- that staff have been trained in how to deal with complaints and disputes in line with the applicant's policy.

165. The Licensing Authority will expect the applicant to show there are policies and procedures in place to protect children and vulnerable people from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits. However, they may include:

- measures/training for staff regarding suspected truant school children on the premises;
- measures/training covering how staff will deal with unsupervised very young children being on the premises;
- measures/training covering how staff would deal with children causing perceived problems on or around the premises.

## Automatic entitlement to two gaming machines

166. Premises licensed to sell alcohol on the premises under the Licensing Act 2003 are automatically entitled to provide two gaming machines of Category C and/or

D. The holder of the Premises Licence under the Licensing Act 2003 must notify the Licensing Authority of their intention to make the gaming machines available for use and must pay the prescribed fee.

167. This entitlement only relates to premises with a Licensing Act 2003 Premises Licence that authorises the sale of alcohol for consumption on the premises and which contain a bar at which alcohol is served without the requirement that alcohol is only sold ancillary to the provision of food.
168. Licensees siting gaming machines must comply with the relevant Gambling Commission Code of Practice.
169. Licensees must be aware that gaming machines can only be supplied by a person holding an Operating Licence from the Gambling Commission enabling them to do this. A register of licensed suppliers can be found on the Gambling Commission's website at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk).
170. In the event that the relevant authorisation under the Licensing Act 2003 is transferred, lapses or is revoked, the automatic entitlement to two gaming machines ceases to have effect and a new notification will need to be served on the Licensing Authority.
171. The Licensing Authority will remove the automatic authorisation in respect of any particular premises if:
  - provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
  - gaming has taken place on the premises that breaches a provision of section 282 of the Gambling Act (i.e. that written notice has been provided to the Licensing Authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
  - the premises are mainly used for gaming; or
  - An offence under the Gambling Act has been committed on the premises.

## Permit for three or more gaming machines

172. This policy applies to alcohol licensed premises that propose to have three or more gaming machines. Licensed premises wishing to have three or more gaming machines of Category C or D must apply to the Licensing Authority for a permit. This permit will replace the automatic entitlement to two gaming machines rather than be in addition to it and the holder must comply with the relevant Gambling Commission Code of Practice.
173. As gaming machines provide opportunities for solitary play and immediate pay outs, they are more likely to engender repetitive and excessive play. The Licensing Authority, on considering an application, will consider whether

granting a permit would be appropriate on a case by case basis, but will specifically have regard to:

- the need to protect children and vulnerable people from harm or being exploited by gambling;
- measures taken by the applicant to satisfy the Licensing Authority that there are sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines;
- whether the applicant has an effective policy in place for handling customer complaints or disputes about the gaming machines.

174. The Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives. However, appropriate measures may cover issues such as:

- the adult machines being in the sight of staff who will monitor that the machines are not being used by those under 18 and look for signs of problem gambling, attempts to cheat the machine, or suspected money laundering;
- notices and signage;
- the provision of information leaflets or helpline numbers for organisations who can assist with problem gambling.

175. If the Licensing Authority is not satisfied that appropriate measures have been taken by the applicant to comply with this policy, it may refuse to grant the permit, or it may vary the number or category of gaming machines authorised by the permit.

176. The Licensing Authority may cancel a permit or may vary the number or category (or both) of gaming machines authorised by it if:

- (a) it would not be reasonably consistent with pursuit of the licensing objectives for the permit to continue to have effect,
- (b) gaming has taken place on the premises in purported reliance on the permit but otherwise than in accordance with the permit or a condition of the permit,
- (c) the premises are mainly use or to be used for making gaming machines available, or,
- (d) an offence under the Gambling Act 2005 has been committed on the premises.

177. Before the Licensing Authority cancels or varies a permit it will give the permit holder 21 days' notice of its intention and allow him/her the opportunity to make a representation. If the permit holder requests a hearing the Licensing Authority will arrange a Licensing Sub-Committee hearing to consider the permit holder's representation and any other evidence available before making its determination.

178. When determining an application for an alcohol-licensed premises gaming machine permit, the Licensing Authority will consider each application on its own merits.

## Prize Gaming Permits

179. This policy applies to applications for, or renewals of, Prize Gaming Permits. Gaming is prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. Normally the prizes are determined by the operator before play commences.
180. Prize gaming may take place without a permit in various premises. These are casinos, bingo halls, adult gaming centres, licensed and unlicensed family entertainment centres and travelling fairs.
181. Given that the prize gaming will particularly appeal to children and young persons, the Licensing Authority will give weight to child protection issues.
182. The applicant will be expected to set out the types of gaming that they are intending to offer and will also be expected to demonstrate:
- an understanding of the limits to stakes and prizes set out in regulations;
  - that the gaming offered is within the law;
  - clear policies that outline the steps to be taken to protect children and vulnerable persons from harm.
183. The Licensing Authority will only grant a permit after consultation with the Police. This will enable the Licensing Authority to determine the suitability of the applicant in terms of any convictions that they may have that would make them unsuitable to operate prize gaming, the suitability of the premises in relation to their location, and issues about disorder.
184. There are conditions in the Act with which the permit holder must comply, though the Licensing Authority cannot attach conditions. The conditions in the Act are:
- the limits on participation fees, as set out in regulations, must be complied with;
  - all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
  - the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
  - participation in the gaming must not entitle the player to take part in any other gambling.

## Club Gaming and Club Machine Permits

185. Members clubs and miners' welfare institutes (but not commercial clubs) may apply for a club gaming permit or a club machine permit. Commercial clubs such as snooker clubs run on a profit basis may apply for a club machine permit. Each type of permit allows the provision of different types of gaming and provision of game machines. The current entitlements can be found by visiting the Gambling Commission's website ([www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)).
186. A commercial club is defined as a club where membership is required but the club is operated for commercial gain.
187. A non-commercial club is a club where no commercial gain is made. A non-commercial club must meet the following criteria to be considered a members' club:
- it must have at least 25 members;
  - it must be established and conducted wholly or mainly for purposes other than gaming (with the exception of bridge or whist);
  - it must be permanent in nature;
  - it must not be established to make a commercial profit;
  - it must be controlled by its members equally.

Examples of these include working men's clubs, branches of the Royal British Legion and clubs with political affiliations.

188. The Licensing Authority may only refuse an application on the grounds that:
- a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
  - b) the applicant's premises are used wholly or mainly by children and/ or young persons;
  - c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
  - d) a permit held by the applicant has been cancelled in the previous ten years; or
  - e) an objection has been lodged by the Gambling Commission or the Police.
189. There is also a "fast-track" procedure available under the Act for premises that hold a club premises certificate under the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Gambling Commission or the Police, and the grounds upon which a Licensing Authority can refuse a permit are reduced. The grounds on which an application under this process may be refused are that:

- (a) the club is established primarily for gaming, other than gaming prescribed under schedule 12;
  - (b) in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
  - (c) a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.
190. There are statutory conditions on club gaming permits that no child may use a Category B or C gaming machine on the premises and that the holder complies with any relevant provision of a Gambling Commission Code of Practice about the location and operation of gaming machines.
191. The Licensing Authority will need to satisfy itself that the club meets the requirements of the Gambling Act 2005 to hold a club gaming permit. In order to do this, it may require proof of additional information from the operator such as:
- is the primary activity of the club something other than gaming?
  - are the club's profits retained solely for the benefit of the club's members?
  - are there 25 or more members?
  - are the addresses of members of the club genuine domestic addresses and do most members live reasonably locally to the club?
  - do members participate in the activities of the club via the internet?
  - do guest arrangements link each guest to a member?
  - is the 48 hour rule being applying for membership and being granted admission being adhered to?
  - are there annual club accounts available for more than one year?
  - how is the club advertised and listed in directories and on the internet?
  - are children permitted in the club?
  - does the club have a constitution and can it provide evidence that the constitution was approved by members of the club?
  - is there a list of Committee members and evidence of their election by the club members?
192. When examining the club's constitution, the Licensing Authority would expect to see evidence of the following:
- Who makes commercial decisions on behalf of the club?
  - Are the aims of the club set out in the constitution?
  - Are there shareholders or members? Shareholders indicate a business venture rather than a non-profit making club.
  - Is the club permanently established? (Clubs cannot be temporary).
  - Can people join with a temporary membership? What is the usual duration of membership?
  - Are there long term club membership benefits?
193. Aside from bridge and whist clubs, clubs may not be established wholly or mainly for the purposes of gaming. The Licensing Authority may consider such factors as:

- How many nights a week gaming is provided;
- How much revenue is derived from gambling activity versus other activity;
- How the gaming is advertised;
- What stakes and prizes are offered;
- Whether there is evidence of leagues with weekly, monthly or annual winners;
- Whether there is evidence of members who do not participate in gaming;
- Whether there are teaching sessions to promote gaming such as poker;
- Where there is a tie-in with other clubs offering gaming through tournaments and leagues;
- Whether there is sponsorship by gaming organisations;
- Whether participation fees are within limits.



# Chapter Six

## Notices

### Temporary Use Notices

194. This policy applies to applications for Temporary Use Notices. Temporary Use Notices allow the use of premises for gambling where there is no Premises Licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for gambling would include hotels, conference centres and sporting venues.
195. The Licensing Authority can only grant a Temporary Use Notice to a person or a company holding a relevant Operating Licence.
196. Currently, Temporary Use Notices can only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner.
197. The Licensing Authority, in considering applications for Temporary Use Notices, will consider whether gambling should take place, or should only take place with modifications to the TUN. In doing so, the Licensing Authority will consider:
- the suitability of the premises;
  - the location of the premises, paying particular attention to its proximity to any schools, hostels or other sensitive premises;
  - the CCTV coverage within the premises;
  - the ability of the premises to provide sufficient staff and/or licensed door supervisors for the notice period;
  - whether the premises or the holder of the Operating Licence have given the Licensing Authority any cause for concern at previous events in relation to the licensing objectives, the guidance issued by the Gambling Commission, the relevant code of practice or this Statement of Principles.

### Occasional Use Notices

198. The Licensing Authority has very little discretion on Occasional Use Notices for betting at tracks aside from ensuring the statutory limit of eight days a calendar year is not exceeded. The Licensing Authority will consider the definition of a “track” and whether the applicant can demonstrate they are responsible for the administration of the “track” or an occupier, and thus permitted to avail themselves of the notice. The definition of “track” in the Act is wider than dog tracks or horse racecourses and includes places where races or other sporting events take place. This could include major halls, hotels and other venues. If notices are given for a single track which would permit betting to occur for more than eight days per year, the Licensing Authority is obliged to issue a counter notice preventing such a breach occurring.

## Chapter Seven

# Small Society Lotteries

199. The Gambling Act 2005 provides that promoting or facilitating a lottery is illegal, unless it falls into one of two categories of permitted lottery, namely:
- licensed lotteries – these are large society lotteries and lotteries run for the benefit of local authorities that are regulated by the Commission and require operating licences
  - exempt lotteries – there are four types of exempt lottery that are expressly permitted under Schedule 11 of the Act, including the small society lottery.

### Definition of lottery

200. A lottery is any arrangement that satisfies all of the criteria contained within the statutory description of either a simple lottery or a complex lottery, under s.14 of the Gambling Act 2005.
201. An arrangement is a simple lottery if:
- persons are required to pay to participate
  - one or more prizes are allocated to one or more members of a class
  - the prizes are allocated by a process which relies wholly on chance.
202. An arrangement is a complex lottery if:
- persons are required to pay to participate
  - one or more prizes are allocated to one or more members of a class
  - the prizes are allocated by a series of processes
  - the first of those processes relies wholly on chance.

### Definition of society

203. A 'society' is the society, or any separate branch of such a society, on whose behalf a lottery is to be promoted. Section 19 of the Gambling Act 2005 defines a society as such if it is established and conducted:
- for charitable purposes, as defined in s.2 of the Charities Act 2006
  - for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity
  - for any other non-commercial purpose other than that of private gain.
204. It is inherent in this definition that the society must have been established for one of the permitted purposes as set out in s.19 of the Act, and that the proceeds of any lottery must be devoted to those purposes. It is not permissible to establish a society whose sole purpose is to facilitate lotteries.

205. Participation in a lottery is a form of gambling. Lotteries must be conducted in a socially responsible manner and in accordance with the Act.
206. The minimum age for participation in a lottery is sixteen. The holder of a small society lottery registration must take reasonable steps to ensure that all those engaged in the promotion of their lottery understand their responsibilities for preventing underage gambling, returning stakes and not paying prizes to underage customers.

## External Lottery Managers

207. External lottery managers (ELM's) are required to hold a lottery operator's licence issued by the Gambling Commission to promote a lottery on behalf of a licensed society.
208. However, individuals or firms can and do provide services to a society or local authority lottery without assuming the role of an ELM. When determining whether a third party is a 'service provider' only, or has assumed the role of an ELM, the degree of management undertaken by both the promoter and the sub-contractor will be crucial factors. Key indicators will include:
- who decides how the lottery scheme will operate
  - who appoints and manages any sub-contractors
  - the banking arrangements for handling the proceeds of the lottery
  - who sells the tickets and pays the prizes
  - who controls promotional aspects of the lottery.
209. Societies employing an unlicensed ELM may be committing an offence and they will need to satisfy themselves that any ELM they employ holds the relevant operator's licence issued by the Commission. The Commission publishes a register of operating licences on its website at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk).

## Lottery Tickets

210. Lotteries may involve the issuing of physical or virtual tickets to participants (a virtual ticket being non-physical, for example in the form of an email or text message). All tickets must state:
- the name of the promoting society
  - the price of the ticket, which must be the same for all tickets (e.g. there can be no option to 'buy two tickets, get one free')
  - the name and address of the member of the society who is designated as having responsibility at the society for promoting small lotteries or, if there is one, the ELM
  - the date of the draw, or information which enables the date to be determined.

211. The requirement to provide this information can be satisfied by providing an opportunity for the participant to retain the message electronically or print it.
212. The society should maintain written records of any unsold and returned tickets for a period of one year from the date of the lottery draw. The Licensing Authority may wish to inspect the records of the lottery for any purpose related to the lottery.

## Where tickets may be sold

213. The Licensing Authority expects holders of small society lottery registrations not to sell lottery tickets to a person in any street. For these purposes 'street' includes any bridge, road, lane, footway, subway, square, court, alley or passage (including passages through enclosed premises such as shopping malls) whether a thoroughfare or not. Tickets may, however, be sold in a street from a static structure such as a kiosk or display stand. Tickets may also be sold door to door. Licensees must ensure that they have any necessary local authority permissions, such as a street trading licence, in order to do this.

## Prizes

214. Prizes awarded in small society lotteries can be either cash or non-monetary. Prizes declared on returns must not exceed the limits on prizes set out by the Act - in effect that combined with any expenses incurred with the running of the lottery, such as managers' fees, they must not comprise more than 80% of the total proceeds of the lottery. Donated prizes would not be counted as part of this 80% (as no money would be withdrawn from the proceeds to cover their purchase) but are still subject to the limit on a single maximum prize of £25,000 and should be declared on the return following the lottery draw.
215. Alcohol should not be offered as a prize in a lottery without the society first ensuring that no Licensing Act 2003 consent is required for this from the Licensing Authority. If such consent is required, then alcohol shall not be offered as a prize unless such consent has been obtained.

## Small society registration

216. The promoting society of a small society lottery must, throughout the period during which the lottery is promoted, be registered with a Licensing Authority. Parts 4 and 5 of Schedule 11 of the Act set out the requirements on both societies and Licensing Authorities with respect to the registration of small society lotteries.
217. The Licensing Authority, with which a small society lottery is required to register, must be in the area where their principal office is located.
218. Licensing authorities are required by paragraph 44 of Schedule 11 of the Act to record details of the society on a register. While it does not have to be a public register, the Commission recommends that licensing authorities make the register available to the public on request.

219. Once the application for registration has been accepted and entered on the local register, the licensing authority must then notify both the applicant and the Commission of this registration as soon as practicable.
220. Applications for small society lottery registrations must be in the form prescribed by the Secretary of State and be accompanied by both the required registration fee and all necessary documents required by the Licensing Authority to assess the application. This information shall include a copy of the society's terms and conditions and their constitution to establish that they are a non-commercial society.
221. Societies may not circumvent the requirement to hold a Gambling Commission Lottery Operating Licence by obtaining two or more registrations with the same or different Licensing Authorities. As set out previously, the Act states that a society lottery is a large lottery if the arrangements for it are such that its proceeds may exceed £20,000 in a single lottery, or if the aggregate proceeds in a calendar year exceed £250,000.
222. In cases where a society has separate branches with different aims and objectives, it is acceptable for them to hold more than one licence or registration. However, in cases where a society holds more than one registration and the aims and objectives of those societies are the same, this may constitute a breach of the threshold limits for small society lotteries set out in Schedule 11 of the Act.
223. By virtue of Schedule 11 paragraph 31(5) of the Act, societies may not hold an Operating Licence with the Gambling Commission and a local authority registration with the same aims and objectives at the same time. This paragraph also provides for a statutory period of three years during which a large society cannot convert to small society status.
224. Registrations run for an unlimited period, unless the registration is cancelled.

## Refusal of registration

225. The Licensing Authority may propose to refuse an application for any of the following reasons:
- An operating licence held by the applicant for registration has been revoked or an application for an operating licence made by the applicant for registration has been refused, within the past five years. The Commission will be able to advise the details of people and organisations that have been refused an operating licence or have had an operating licence revoked in the past five years. Licensing Authorities should consult the Commission as part of their consideration process.
  - The society in question cannot be deemed non-commercial.
  - A person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence, listed in Schedule 7 of the Act.
  - Information provided in or with the application for registration is found to be false or misleading.

226. The Licensing Authority may only refuse an application for registration after the society has had the opportunity to make representations. These can be taken at a formal hearing or via correspondence. The Licensing Authority shall inform the society of the reasons why it is minded to refuse registration and provide it with at least an outline of the evidence on which it has reached that preliminary conclusion, in order to enable representations to be made.
227. Representations will be heard by a licensing subcommittee.

## Revocation of a small society's registered status

228. The Licensing Authority may revoke the registration of a society if it thinks that they would have had to, or would be entitled to, refuse an application for registration if it were being made at that time. The Licensing Authority will inform the society of the reasons why it is minded to revoke the registration and provide them with the evidence on which it has reached that preliminary conclusion.
229. Representations will be heard by a licensing sub-committee.

## Administration and returns

230. The Act requires that a minimum proportion of the money raised by the lottery is channelled to the goals of the society that promoted the lottery. If a small society lottery does not comply with these limits it will be in breach of the Act's provisions, and consequently be liable to prosecution.
231. The limits are as follows:
- at least 20% of the lottery proceeds must be applied to the purposes of the society (Schedule 11, paragraph 33)
  - no single prize may be worth more than £25,000 (Schedule 11, paragraph 34)
  - rollovers between lotteries are only permitted where every lottery affected is also a small society lottery promoted by the same society, and the maximum single prize is £25,000 (Schedule 11, paragraph 35)
  - every ticket in the lottery must cost the same and the society must take payment for the ticket fee before entry into the draw is allowed (Schedule 11, paragraph 37).
232. Paragraph 39 of Schedule 11 in the Act sets out the information that the promoting society of a small society lottery must send as returns to the Licensing Authority with which it is registered, following each lottery held. This information allows Licensing Authorities to assess whether financial limits are being adhered to and to ensure that any money raised is applied for the proper purpose. The following information must be submitted:
- the arrangements for the lottery - specifically the date on which tickets were available for sale or supply, the dates of any draw and the value of prizes,

- including any donated prizes and any rollover
- the total proceeds of the lottery
- the amounts deducted by the promoters of the lottery in providing prizes, including prizes in accordance with any rollovers
- the amounts deducted by the promoters of the lottery in respect of costs incurred in organising the lottery
- the amount applied to the purpose for which the promoting society is conducted (this must be at least 20% of the proceeds) whether any expenses incurred in connection with the lottery were not paid for by deduction from the proceeds, and, if so, the amount of expenses and the sources from which they were paid.

233. Paragraph 39 of Schedule 11 in the Act also requires that returns must:

- be sent to the Licensing Authority no later than three months after the date of the lottery draw, or in the case of 'instant lotteries' (scratch cards) within three months of the last date on which tickets were on sale
- be signed (electronic signatures are acceptable if the return is sent electronically) by two members of the society, who must be aged 18 or older, are appointed for the purpose in writing by the society or, if it has one, its governing body, and be accompanied by a copy of their letter or letters of appointment.

234. The Gambling Commission may inspect a society's returns, although it will not routinely do so. The Licensing Authority is required to retain returns for a minimum period of three years from the date of the lottery draw. They must also make them available for inspection by the general public for a minimum period of 18 months following the date of the lottery draw.

235. The Licensing Authority will monitor the cumulative totals of returns to ensure that societies do not breach the annual monetary limit of £250,000 on ticket sales. The Licensing Authority must notify the Commission if returns reveal that a society's lotteries have exceeded the values permissible, and such notifications will be copied to the society in question. The Gambling Commission will contact the society to determine if they are going to apply for a lottery operator's licence, thereby enabling them to run large society lotteries lawfully, and will inform the Licensing Authority of the outcome of its exchanges with the society.

## Appendix One Consultation

A public consultation was carried out in respect of this Statement of Principles from ADD DATE – ADD DATE. As well as sending consultation letters and emails directly to the parties mentioned in the Introduction and Overview, a public notice was displayed at public libraries within the District ( Folkestone, Cheriton, Sandgate, Wood Avenue, Hythe, Lydd , Lyminge, New Romney), for the duration of the consultation.

The draft statement and an invitation to comment as part of the consultation was also published on the council website.

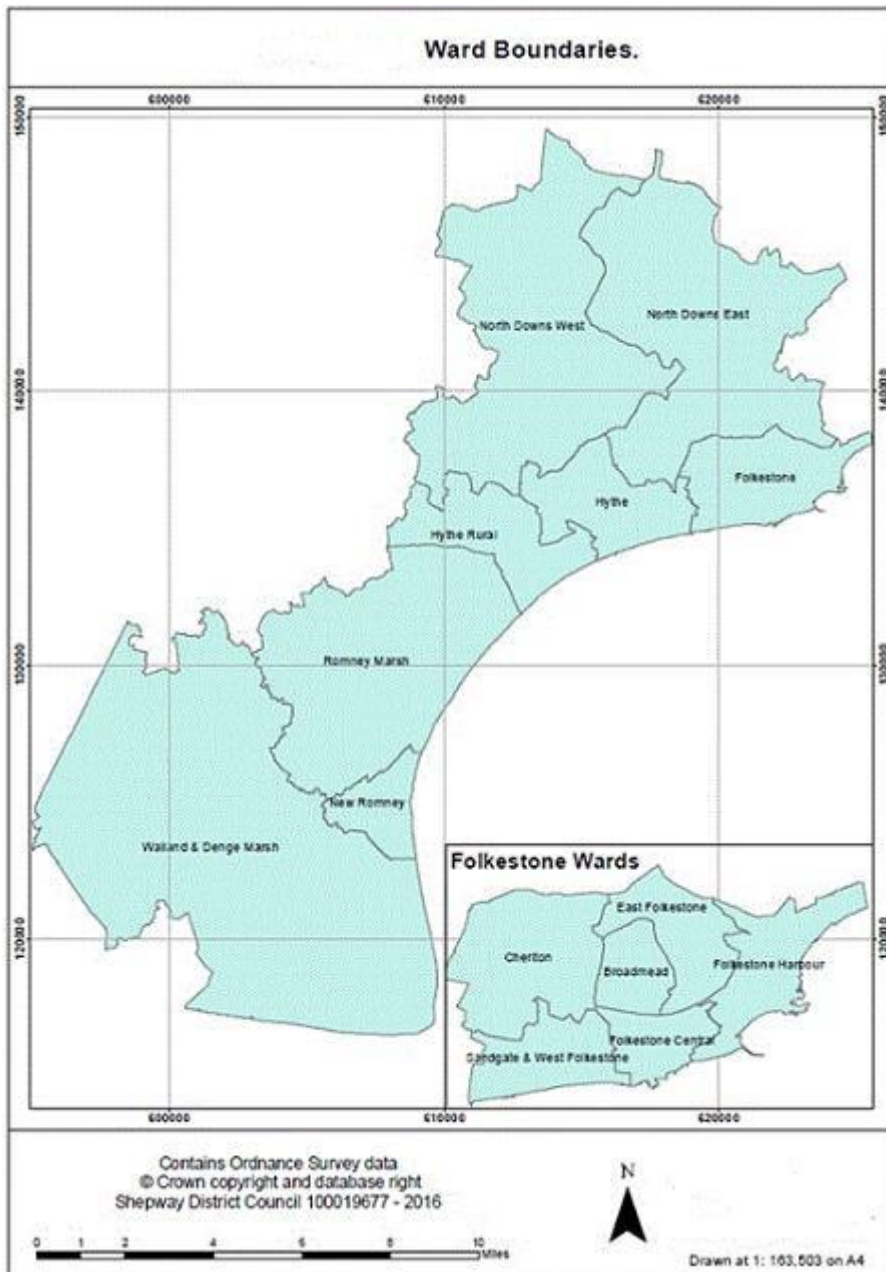
The Statement of Principles was considered by the Council’s Planning and Licensing Committee on ADD DATE , and approved by Full Council on ADD DATE

A notice was published on the Council’s website, and on the notice board at the Civic Centre, Castle Hill Avenue on ADD DATE stating where the Statement of Principles could be inspected (including the internet address), the date the Statement of Principles would be published, and the date it would take effect.

Notices were also placed in public libraries within the District



# Appendix Two Map of the Area Covered by this Statement of Principles





# Agenda Item 6

## DCL/21/41

**Application No:** 21/1989/FH

**Location of Site:** Princes Parade Promenade  
Princes Parade  
Hythe CT21 6EQ

**Development:** New electricity substation and bin store

**Applicant:** Folkestone & Hythe District Council

**Agent:** Tibbalds  
19 Maltings Place  
London SE1 3JB

**Officer Contact:** David Campbell

### SUMMARY

This application is for a new electricity sub-station to serve the future development of Princes Parade that already has planning permission. Notwithstanding that, it is a full planning application that is required to be considered on its own merits. It is considered that there would be no adverse impacts in respect of the Scheduled Monument, ecology, archaeology, contamination, maintenance of the canal, design, visual or residential amenity and the application is considered acceptable.

### RECOMMENDATION:

**That planning permission be granted subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.**

### 1. INTRODUCTION

- 1.1 The application is reported to Committee because it forms part of a larger development that the Council has a substantial interest in and due to the objection from Hythe Town Council.

### 2. SITE AND SURROUNDINGS

- 2.1 The wider application site is located in a prominent position on the coast, immediately to the south of the Royal Military Canal (RMC), which is a Scheduled Monument (SM) and Local Wildlife Site (LWS). Beyond the RMC to the north is the residential area of Seabrook, focussed along the A259 and to the south is Princes Parade, the sea wall promenade and the beach.

# DCL/21/41

- 2.2 The wider site is located approximately 260 metres to the south and south-east of the Kent Downs Area of Outstanding Natural Beauty, which extends as far as Cliff Road on the hillside above.
- 2.3 This site for a new electricity substation sits on the eastern side of the wider Princes Parade development site which would be accessed from an area of land that is proposed to become a future car park. The substation would be located between the new leisure centre and proposed residential areas and is to serve the whole development site.
- 2.4 A site location plan is attached to this report as Appendix 1. Figure 1 below also shows the application site within the context of the wider development.

## 3.0 PROPOSAL

- 3.1 The application proposes a single storey flat roofed building for use as a substation, a bin store and a smaller store. It would be accessed from one of the car parks close to the new leisure centre and the illustrative location of part of the residential development in the position shown on Figures 1 and 2 below. It is to serve the whole development including the leisure centre and residential elements of the scheme.
- 3.2 The application explains that the substation has been located to fit within the wider site layout for the approved leisure centre and this location has been selected as it does not obstruct site lines of vehicles using the car park and allows refuse collection vehicles to park and manoeuvre adjacent to the bin store. Figures 1 and 2 also show how the access road would join the wider scheme that has been previously approved.

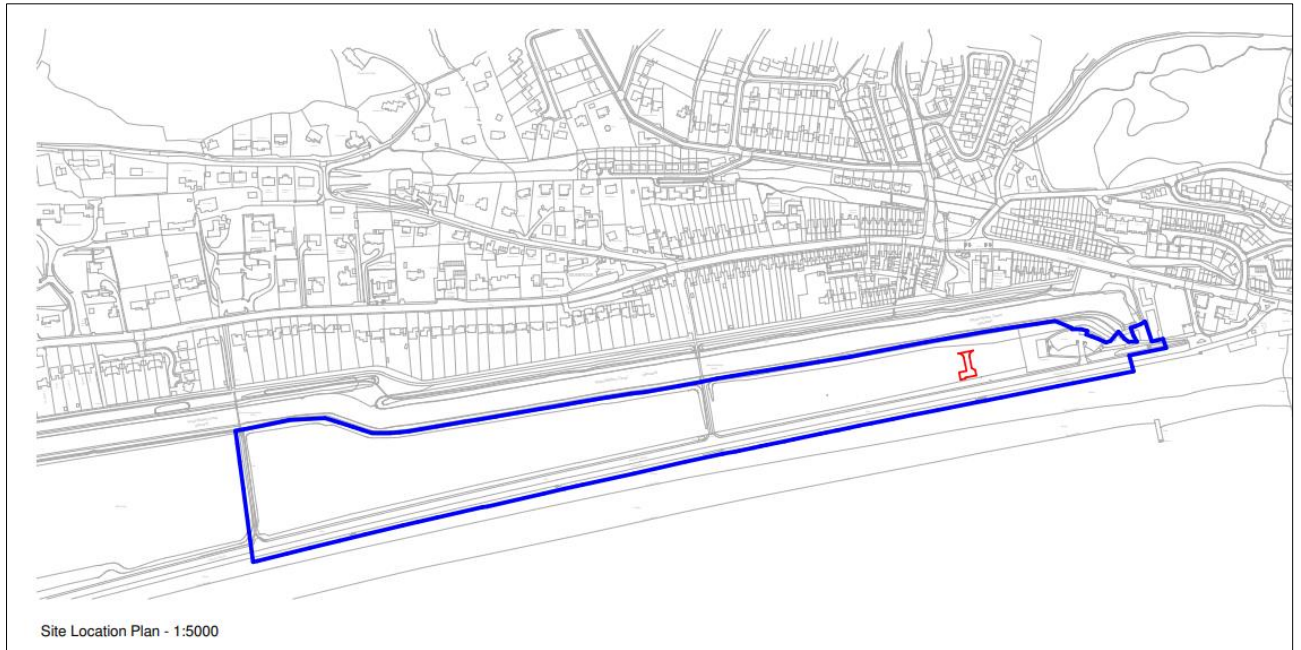


Figure 1 – Site Plan showing location of the site within the wider site area

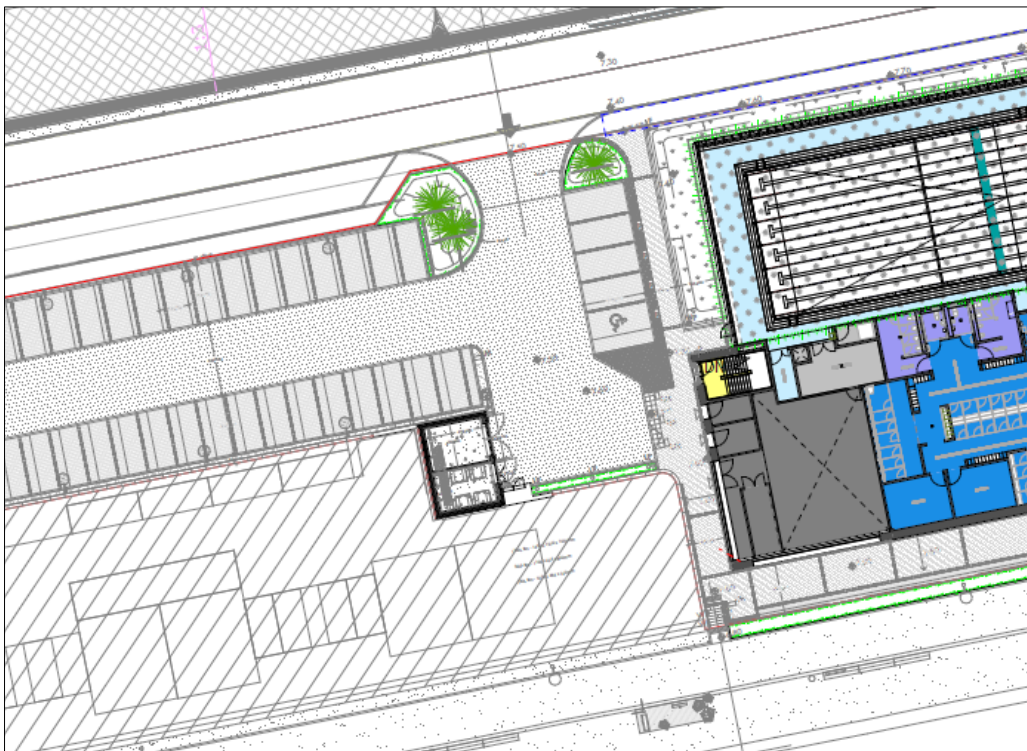


Figure 2 – Position of the substation in relation to the approved scheme.

- 3.3 The bin store would be 8.73m deep, between 4.54m, 5.80m and 8.23m in width and 2.85m in height. The floor plan below in Figure 3 shows how this is to be divided up and how it would provide space for 6 1100ltr bins.

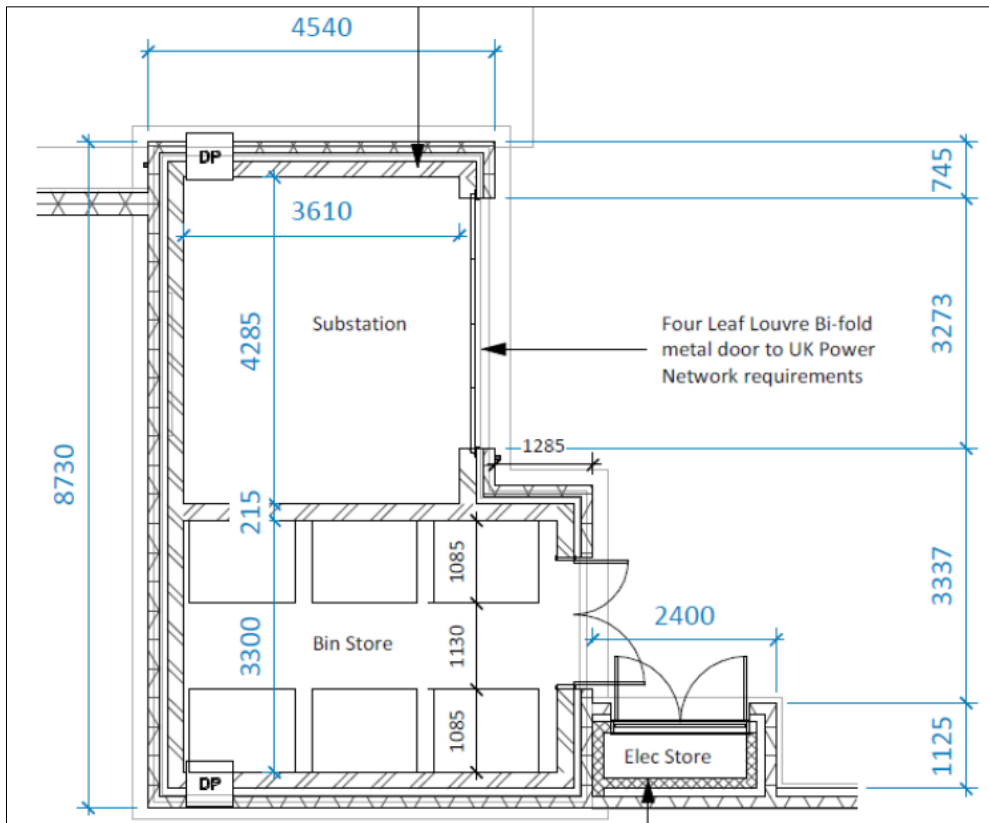
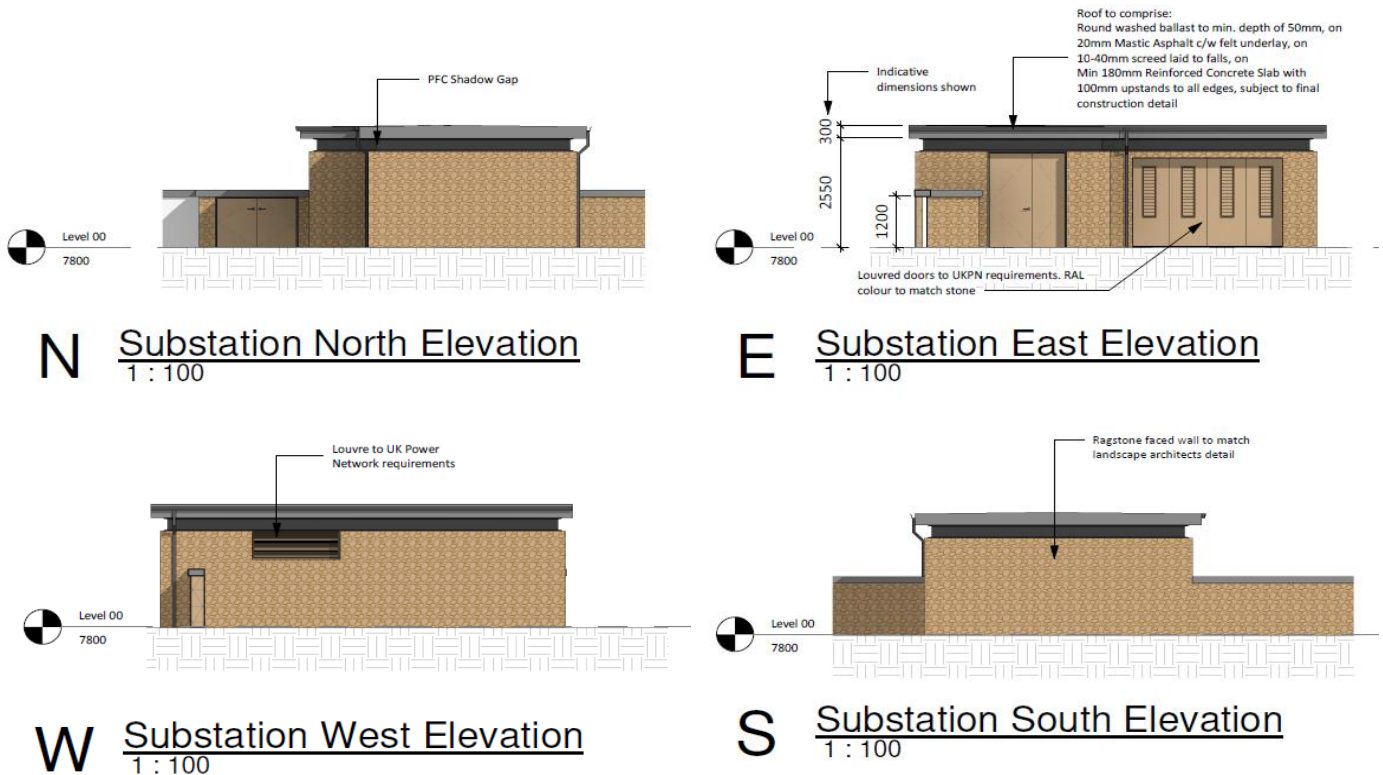


Figure 3 – Layout of the substation

3.4 The building is to be flat roofed and would be finished with faced ragstone, louvred doors to match the ragstone and round washed ballast on the roof. The elevations are given in Figure 4 below.



**N** Substation North Elevation  
1 : 100

**E** Substation East Elevation  
1 : 100

**W** Substation West Elevation  
1 : 100

**S** Substation South Elevation  
1 : 100

Figure 4 – Elevations of the proposed building.

- 3.5 The following reports were submitted by the applicant in support of this current application:

Design and Access Statement – The Design and Access Statement sets out the design rationale for the scheme, the reason for the proposed location and the materials that are being proposed. It also shows the proposed building within the context of the approved scheme.

Site Investigation Report – A contamination report has been submitted with the application. It is a factual account of the site investigation undertaken. The report includes site investigation methods; ground conditions; soil sample testing procedures; groundwater sampling and level monitoring; gas monitoring. The purpose of the preliminary report and assessment was to identify any contamination or geotechnical issues associated with the former use of the site. The geochemical issues identified include metal, PAH, TPH and asbestos. The recommendations include ground improvement or a piled solution and suspended floor slats.

Response to EA Objection to New Electricity Substation – This is a technical note seeking to overcome the EA's initial objection to works being carried out with 8m of the Royal Military Canal.

## 4. RELEVANT PLANNING HISTORY

- 4.1 The relevant planning history for the site is as follows:

Y17/1042/SH	Hybrid application accompanied by an Environmental Statement for the development of land at Princes Parade, comprising an outline application (with all matters reserved) for up to 150 residential dwellings (Use Class C3), up to 1,270sqm of commercial uses including hotel use (Use Class C1), retail uses (Use Class A1) and / or restaurant/cafe uses (Use Class A3); hard and soft landscaped open spaces, including children's play facilities, surface parking for vehicles and bicycles, alterations to existing vehicular and pedestrian access and highway layout, site levelling and groundworks, and all necessary supporting infrastructure and services. Full application for a 2,961sqm leisure centre (Use Class D2), including associated parking, open spaces and children's play facility.	Approved
21/1182/FH/CON	Approval of details pursuant to conditions 15, 16 & 17 of Y17/1042/SH	Approved

## 5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

### Consultees

**Hythe Town Council:** Object for the following reasons:

- Insufficient information
- The layout and density of the buildings are not in keeping with the street scene and it is out of character.

**KCC Ecology:** No objection.

- The footprint of the substation is located within area covered by the ecological mitigation strategy 21/1182/FH/CON.
- The plans submitted are not clear but it's understood the substation is not located within an area identified as open space/mitigation area.
- The works for the substation must be carried out once the mitigation for 21/1182/FH/CON has been implemented and the area has been released by the applicant's ecologist.
- The proposed substation is located directly to the south of a main badger sett and therefore it's unlikely that the works can commence until the mitigation to close the badger sett has been implemented.
- It would have been preferable if the ecologist letter had clearly set out what aspects of the mitigation strategy had to be completed to prior to the commencement of the works associated with this application.
- The ecological mitigation agreed under 21/1182/FH/CON must be carried out as this is a separate application to the original application
- This mitigation should be secured by condition.

**KCC Public Rights of Way:** No comments to make.

**KCC Highways and Transportation:** No comments to make.

**KCC Archaeology:** No objection.

It is unlikely that the proposed works will have a significant impact at this location.

**Natural England:** No comments.

**Environment Agency:** No objection.

Subject to the mitigation agreed under 21/1182/FH/CON being carried out first.



**Contamination Consultant:** Has not objected but requested a condition to ensure that the contamination remediation details to be submitted on the approved application apply to this application as well. No works are to take place until these remediation details are agreed and signed off.

## **Local Residents Comments**

- 5.2 25 neighbours directly consulted. 9 letters of objection received. Objections made to the wider approved development of the site have not been included as they do not specifically relate to the application under consideration.

I have read all of the letters received. The list of key issues is summarised below:

### **Objections**

- Out of keeping, character and place
- The layout and density of the building
- The layout and density of the building are not in keeping with the street scene, it is out of character and out of place.
- Lacks detail
- Dangerously close to Seabrook Primary School and could emit electromagnetic fields which can increase the risk of developing health problems.
- So many people are against the plans for Princes Parade and feel their voices go unheard.
- Global climate change and sea defences none of this work should be completed.
- We need the nature and wildlife to protect our coastal shores.
- Contamination and harm to health.

- 5.5 Responses are available in full on the planning file on the Council's website:

<https://searchplanapps.folkestone-hythe.gov.uk/online-applications/>

## **6. RELEVANT PLANNING POLICY**

- 6.1 The Development Plan comprises the Places and Policies Local Plan 2020 and the Core Strategy Local Plan 2013.
- 6.2 The Folkestone & Hythe District Core Strategy Review Submission Draft was submitted to the Secretary of State on 10 March 2020. Inspectors were appointed to examine the plan on 19<sup>th</sup> March 2020 and public hearings were held from 15<sup>th</sup> to 18<sup>th</sup> December 2020, from 5<sup>th</sup> to 12<sup>th</sup> January 2021 and from 29<sup>th</sup> June to 1<sup>st</sup> July 2021. The Inspectors wrote to the council on 1<sup>st</sup> July 2021 to state that the Core Strategy Review complies with the duty to cooperate and can be made 'sound' by amendment through

main modifications. The Inspectors followed up their initial assessment by letter on 16<sup>th</sup> July 2021, stating that, subject to main modifications concerning detailed policy wording, they consider that the plan's spatial strategy and overall approach to the district's character areas and settlements is sound. The Inspectors find that the housing requirement is justified and that the Core Strategy Review will provide an adequate supply of housing over the plan period and at least a five year supply of housing land at the point of adoption. In accordance with National Planning Policy Framework (2021) paragraph 48, the policies in the Core Strategy Review should therefore be afforded significant weight, having regard to the Inspectors' outline of main modifications required.

## 6.3 The relevant development plan policies are as follows:-

### Places and Policies Local Plan 2020

- Policy UA18 – Princes Parade, Hythe
- Policy HB1 – Quality Places Through Design
- Policy HB2 – Cohesive Design
- Policy T1 – Street Hierarchy and Site Layout
- Policy NE2 – Biodiversity
- Policy NE7 – Contaminated Land
- Policy NE9 – Development around the Coast
- Policy HE1 – Heritage Assets
- Policy HE2 – Archaeology

### Core Strategy Local Plan (2013)

- Policy DSD – Delivering Sustainable Development
- Policy SS1 – District Spatial Strategy
- Policy SS2 – Housing and the Economy Growth Strategy
- Policy SS3 – Place Shaping and Sustainable Settlements Strategy
- Policy SS5 – District Infrastructure Planning
- Policy CSD1 – Balanced Neighbourhoods for Shepway
- Policy CSD2 – District Residential Needs
- Policy CSD4 - Green Infrastructure of Natural Networks, Open Spaces and Recreation
- Policy CSD5 – Water and Coastal Environmental Management in Shepway
- Policy CSD7 – Hythe Strategy

### Core Strategy Review Submission draft (2019)

- Policy SS1 – District Spatial Strategy
- Policy SS2 – Housing and the Economy Growth Strategy
- Policy SS3 – Place Shaping and Sustainable Settlements Strategy
- Policy SS5 – District Infrastructure Planning
- Policy CSD1 – Balanced Neighbourhoods for Shepway
- Policy CSD2 – District Residential Needs

Policy CSD4 – Green Infrastructure of Natural Networks, Open Spaces and Recreation

Policy CSD5 – Water and Coastal Environmental Management in Shepway

Policy CSD7 – Hythe Strategy

6.4 The following are also material considerations to the determination of this application.

## **Government Advice**

### National Planning Policy Framework (NPPF) 2019

Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:-

Paragraph 11 - Presumption in favour of sustainable development.

Paragraph 47 - Applications for planning permission be determined in accordance with the development plan.

Paragraph 48 – Giving weight to emerging plans.

Paragraph 127 -130 – Achieving well designed places.

Paragraph 174 - Conserving and enhancing the environment

Paragraph 180 – Mitigation and compensation for harm to biodiversity and habitats.

Paragraphs 183 & 184 – Development and contamination.

Paragraph 194 – Proposals affecting heritage assets

Paragraphs 199 – 205 – Considering potential impacts on heritage assets.

## **7. APPRAISAL**

7.1 The principle of the overall development of which this site forms a part, has been established by the grant of permission for the wider site. The substation/ refuse store would be small in scale and located in a position to serve the whole development. As such the principle of the development is considered to be acceptable.

7.2 Given the above, the main considerations are the following issues:

- a) Impact on Scheduled Monument
- b) Visual amenity
- c) Contamination
- d) Ecological implications
- e) Flood risk/maintenance of the RMC bank

### **a) Impact on scheduled monument**

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- 7.3 The historical value of the RMC is due to it being a unique form of defence associated with the significant threat of Napoleonic invasion. The scheduled area includes adjoining features including the towpaths. Views between the canal and sea are currently interrupted due to the raised land levels from the previous use of the wider Princes Parade site and the dense tall vegetation along the southern boundary of the canal tow path. The RMC is a Scheduled Monument, a heritage asset as set out in the NPPF and therefore has to be taken into account when a decision is made.
- 7.4 As such paragraphs 194 to 208 of the NPPF are relevant here, particularly 197 which states the desirability of sustaining and enhancing the significance of heritage assets and para 202 which comments on less than substantial harm which should be weighed against the public benefits of the proposal.
- 7.5 The proposed building would be situated in the middle of the wider development which already has the benefit of planning permission, in close proximity to the new leisure centre which is a considerably larger building. As a result it is not considered that it would adversely impact on the immediate setting of the canal, and given that it is to be adjacent to a future car park, it would also not impact on any landscaping. There would be some impact on the setting of the RMC given that the new building would be viewed within the same context from certain positions within the wider site. However, this would be not cause any harm (less than substantial or otherwise) given the building would be situated within a wider development site as noted above. As a result, it is not considered that there would be any detrimental additional impact on the Royal Military Canal.

## **b) Visual amenity**

- 7.6 Policy HB1 states that planning permission should be granted where the proposal makes a positive contribution to its location and surroundings, enhancing integration while also respecting existing buildings and land uses, particularly with regard to layout, scale, proportions, massing, form, density, materiality and mix of uses so as to ensure all proposals create places of character.
- 7.7 The proposed substation is small scale and single storey in nature and would be constructed in high quality materials both suitable to the location and the development it is intended to serve. I am satisfied that the substation is well designed and would not result in harm to visual amenity of the locality in the immediate future nor as part of the future Princes Parade development.
- 7.8 In terms of layout, as the substation is required to serve both elements of the hybrid application its location on the boundary between the outline and detailed elements is logical. Combining with the refuse store would in the long term minimise visual clutter from multiple buildings.
- 7.9 The refuse store, which is part of a refuse strategy would also be provided in a manner which is visually acceptable and would ensure that unsightly wheelie bins are contained within an appropriate structure.
- 7.10 Substations of this nature are a common feature of every modern development and do not in my view or experience give rise to any residential amenity concerns.

## **c) Contamination**

- 7.11 In the 1930s the wider site was used for gravel extraction and in the 1960s and 1970s it was used as a refuse tip, leading to contamination and raised land levels. A contamination report has been submitted with this application.
- 7.12 The Council's Contamination Consultant has not objected to the application and has requested a condition to ensure that remediation details are submitted under the hybrid application cover this site as well. This is to ensure that the application does not give rise to any contamination issues in its own right. This has been attached.

## **d) Ecology**

- 7.13 The Ecology Method Statement (EMS) which has now been approved under 21/1182/FH/CON as set out above, identifies a number of species and habitats across the wider site, of which this site forms a part. The EMS gives a number of recommendations which KCC Ecology have recommended are dealt with prior to this application being implemented. This is considered to be a sensible approach and as such a condition has been attached to ensure that this is the case.
- 7.14 Subject to this, it is considered that it has been satisfactorily demonstrated that any impacts on other wildlife and habitats can be mitigated to an acceptable level which addresses the concerns raised by the Environment Agency, and issues raised by KCC Ecology.

## **e) Flood Risk/Maintenance of the RMC**

- 7.15 Given that the proposal would be built on a part of the site that is to contain a car park, the proposed development would not create any additional hard surfacing or have any impact on surface water runoff from the site. It should be noted that the site is not in an identified flood risk area on the EA's flood maps.
- 7.16 The EA initially objected to the scheme on the impact to the Royal Military Canal, however they have withdrawn their objection providing the mitigation measures set out in the Ecological Method Statement (previously approved) are adhered to. They note that access to the 8m bylaw margin required by the EA would be maintained. The scheme is therefore considered to be acceptable on these grounds.

## **f) Other issues**

- 7.17 Electromagnetic fields and wider safety issues arising from this development are dealt with under other legislation. Members will of course note that electricity substations are a common and necessary supporting infrastructure, seen throughout the country. The substation is not considered to impact upon existing residential amenity, given the distance to the closest neighbouring properties.
- 7.18 I note concerns have been raised that the density of the development is out of keeping with the area. Density is a measurement of the number of dwellings on an area of land. As no dwellings are proposed as part of this application, density is not a material consideration.

- 7.19 A number of concerns have been raised regarding a lack of information having been submitted with this application – although this has not been expanded on in respect of what information is missing. Notwithstanding this, officers are satisfied that the application meets both national and local validation requirements and that sufficient information has been provided to assess the development.

## **Environmental Impact Assessment**

- 7.20 In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1& 2 of the Regulations and it is not considered to fall within either category and as such does not require screening for likely significant environmental effects in its own right. It is however noted that the wider site was submitted with an Environmental Statement.

## **Human Rights**

- 7.21 In reaching a decision on a planning application the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.

## **Public Sector Equality Duty**

- 7.22 In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:
- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
  - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
  - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

It is considered that the application proposals would not conflict with objectives of the Duty.

## **Working with the applicant**

- 7.23 In accordance with paragraphs 38 of the NPPF, Folkestone and Hythe District Council (F&HDC) takes a positive and creative approach to development proposals focused on solutions. F&HDC works with applicants/agents in a positive and creative manner.

## **8 CONCLUSION**

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- 8.1 This application is for a new electricity sub-station to serve the future development of Princes Parade that already has planning permission. Notwithstanding that, it is a full planning application that is required to be considered on its own merits. It is considered that there would be no adverse impacts in respect of the Scheduled Monument, ecology, archaeology, contamination, maintenance of the canal, design, visual or residential amenity, and the application is considered acceptable.

## 9. BACKGROUND DOCUMENTS

- 9.1 The consultation responses set out at Section 5.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

## 10. RECOMMENDATIONS

**That planning permission be granted subject to the following conditions and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.**

### Conditions:

1. The development hereby permitted must be begun within three years of the date of this permission.

Reason:

As required by Section 91 of the Town and Country Planning Act 1990.

2. The development, which only includes the area of land identified in red on the site location plan, hereby permitted shall be carried out in complete accordance with the following plans and details: PPLC-GT3-00-A-901001 – Rev:P02, PPLC-GT3-00-00-DR-A-905000 - RevP04, PPLC-MHS-ZZ-Z0-DR-L-90102, Design and Access Statement, Ecology Letter from Lloyd Bore and Contamination Report from IDOM. Any other alternation not within the red line of the application site do not form part of this application and are therefore not approved here.

Reason:

For the avoidance of doubt and in order to ensure the satisfactory implementation of the development.

3. No development beyond the construction of foundations shall take place until details of the external finishing materials to be used on the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority, and works shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

4. No development shall take place, until the ecological mitigation measures agreed pursuant to conditions 15, 16 and 17 of planning permission Y17/1042/SH covering this part of the application site, have been carried out. A written statement confirming this will be submitted to and be approved in writing by the Local Planning Authority before any works hereby permitted are carried out.

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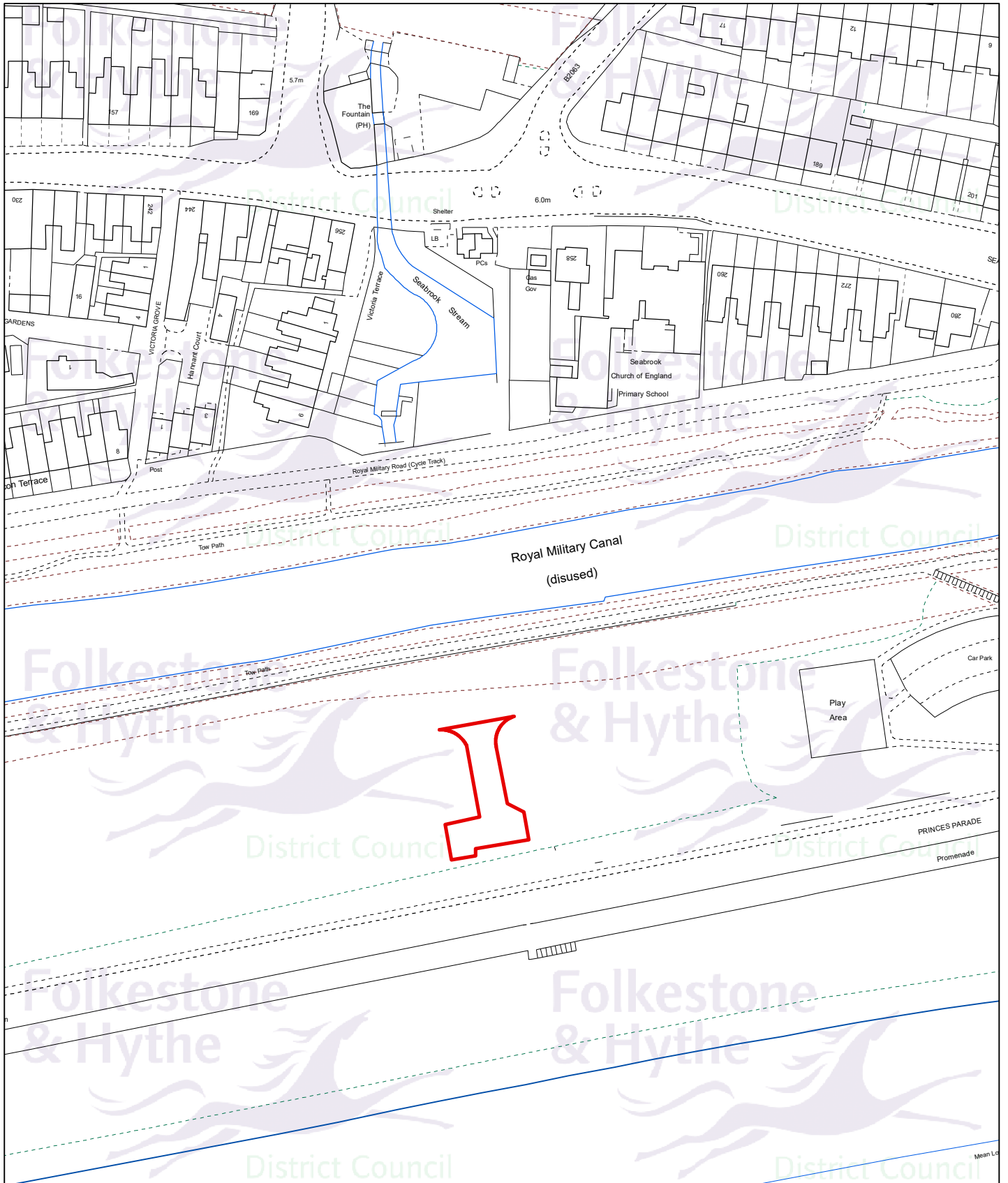
Reason: In order to safeguard wildlife on site.

5. No development shall take place, until the requirements of condition 25 of planning permission Y17/1042/SH, have been approved in writing by the Local Planning Authority including any additional remediation requirements that are deemed necessary. Works shall be carried out in accordance with the approved details and a written statement confirming this will be submitted to and be approved in writing by the Local Planning Authority before any works hereby permitted are carried out.

Reason: To protect the development and surrounding environment and human health against contamination and pollution.



# Princes Parade Promenade, Princes Parade, Hythe

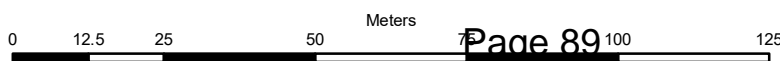


Drawn date:  
01 Dec 2021

Drawn by:  
A. Gheroghita

Drawing ref.:  
1834/CO/LS

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# Agenda Item 7

## DCL/21/42

**Application No:** 21/1997/FH

**Location of Site:** Princes Parade Promenade  
Princes Parade  
Hythe CT21 6EQ

**Development:** Storm water outfall drainage pipes

**Applicant:** Folkestone & Hythe District Council

**Agent:** Tibbalds  
19 Maltings Place  
London SE1 3JB

**Officer Contact:** David Campbell

### SUMMARY

This application is for two storm water outfall drainage pipes to serve the future development of Princes Parade that already has planning permission. Notwithstanding that, it is a full planning application that is required to be considered on its own merits. It is considered that there would be no adverse impacts in respect of the Scheduled Monument, ecology, archaeology, contamination, maintenance of the canal, design, visual or residential amenity, and the application is considered acceptable.

### RECOMMENDATION:

**That planning permission be granted subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.**

### 1. INTRODUCTION

- 1.1 The application is reported to Committee in accordance with the scheme of delegation and due to the objection from Hythe Town Council.

### 2. SITE AND SURROUNDINGS

- 2.1 The wider Princes Parade application site is located in a prominent position on the coast, immediately to the south of the Royal Military Canal (RMC), which is a Scheduled Monument (SM) and Local Wildlife Site (LWS). Beyond the RMC to the north is the residential area of Seabrook, focussed along the A259 and to the south is Princes Parade, the sea wall promenade and the beach.

# DCL/21/42

- 2.2 The wider site is located approximately 260 metres to the south and south-east of the Kent Downs Area of Outstanding Natural Beauty, which extends as far as Cliff Road on the hillside above.
- 2.3 This specific application site consists of two locations on the southern side of the wider Princes Parade development, noted in the submission as the western and eastern outfall pipes. The pipes connect the wider site with the beach, through the existing promenade and the beach access.
- 2.4 A site location plan is attached to this report as Appendix 1. Figure 1 shows the site in the context of the wider development.

## 3.0 PROPOSAL

- 3.1 Full planning permission is sought for two surface water drainage outfall pipes. The pipes would be approximately 15m long (western outfall) and 20m long (eastern outfall) from the existing promenade and 0.6m in diameter.
- 3.2 The pipes would be metal with timber piles and steel grilles at the end. They would also be fitted with valves underneath the existing promenade. As can be seen above, the majority of the pipe would be below ground level and would run under the existing promenade, the beach access as well as the beach itself. They have been designed to allow for the movement of beach material/ shingle. It is only the end of the pipes that would therefore be visible from the beach.
- 3.3 The proposal would serve the approved Princes Parade development addressing its flooding/ drainage needs and would connect into any future surface water scheme that is proposed. Notwithstanding that, it is a full planning application that is required to be considered on its own merits.
- 3.4 Figure 1 below shows how the pipes would relate to the Princes Parade development approved under ref: Y17/1042/SH. Figures 2 and 3 show the plan view of the two pipes.
- 3.5 The proposed drainage system is proposed as gravity fed and passive, with no need for pumping infrastructure and as such no noise would be generated.
- 3.6 The proposed storm water outfall infrastructure would not be adopted and the outfall would remain the property of Folkestone and Hythe District Council and would be maintained by the Council for the life of the drainage requirement.

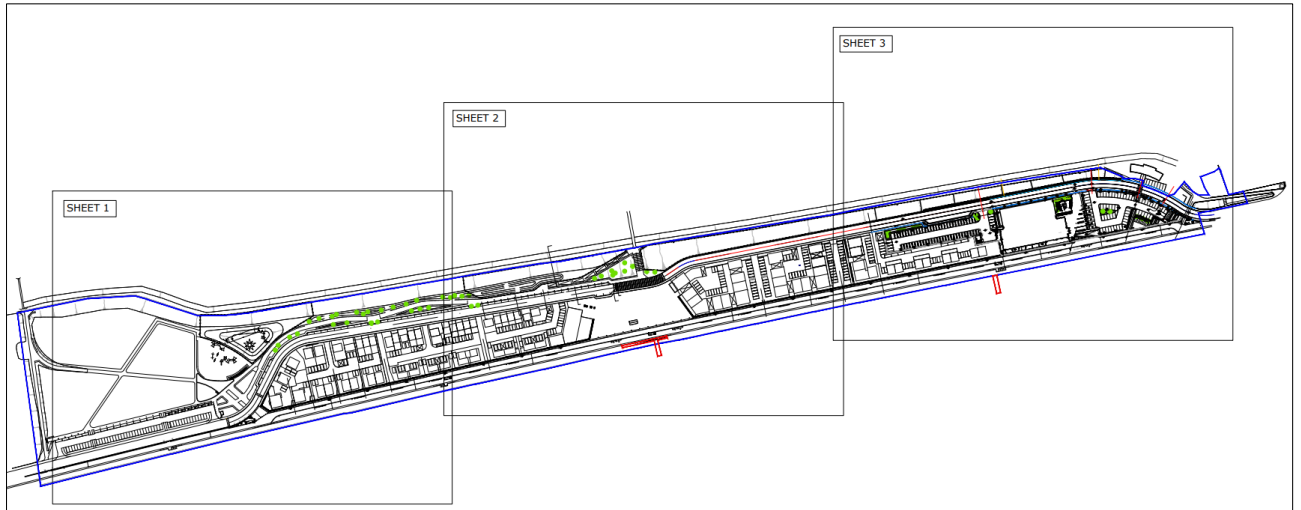


Figure 1 – Site Plan showing location of the pipes within the wider site area.

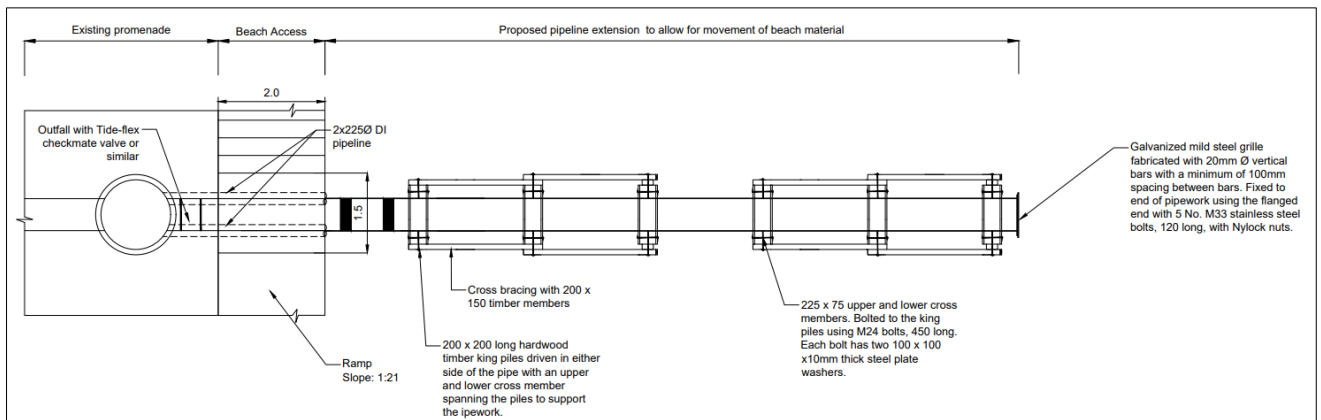


Figure 2 – Plan View of the Western Outfall.

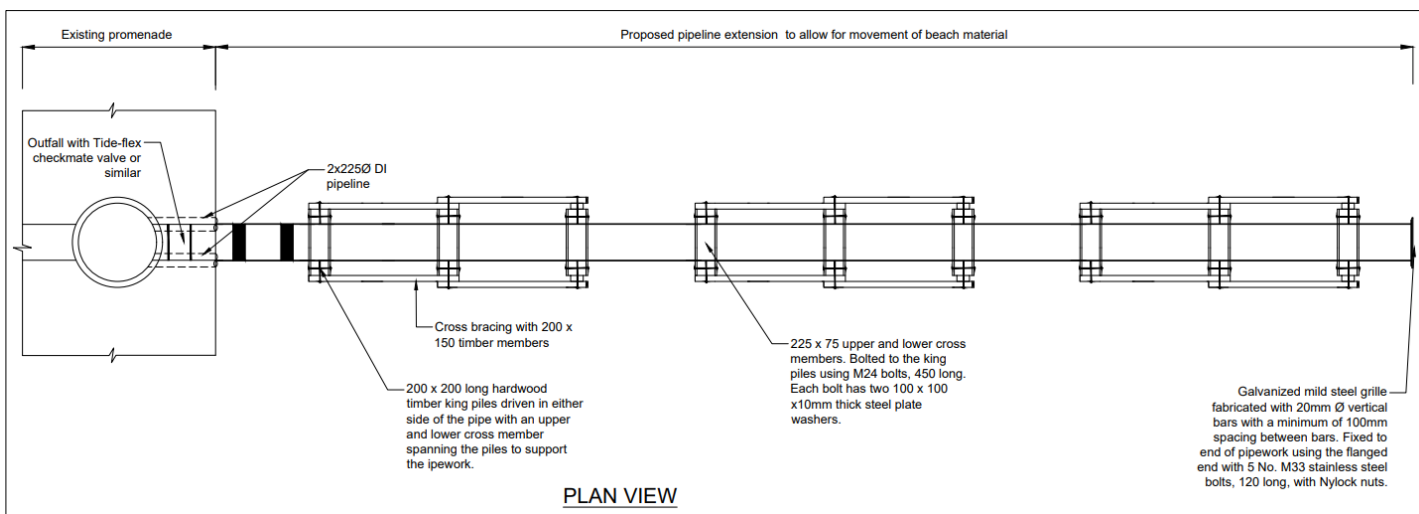


Figure 3 – Plan View of the Eastern Outfall

3.7 The following reports were submitted by the applicant in support of this current application:

Flood Risk Assessment – The FRA sets out the strategy to ensure that the risk of surface water flooding offsite would not increase as a result of the development and to demonstrate a sustainable solution for surface water to be dealt with that is discharged from the development site. It concludes that risk to the proposed development is low and by restricting the flow of water into the RMC it would help reduce the risk of flooding elsewhere and as such meets the criteria of the NPPF and local policy.

Site Investigation Report – A contamination report has been submitted with the application. It is a factual account of the site investigation undertaken. The report includes site investigation methods; ground conditions; soil sample testing procedures; groundwater sampling and level monitoring; gas monitoring.

## 4. RELEVANT PLANNING HISTORY

4.1 The relevant planning history for the site is as follows:

Y17/1042/SH	Hybrid application accompanied by an Environmental Statement for the development of land at Princes Parade, comprising an outline application (with all matters reserved) for up to 150 residential dwellings (Use Class C3), up to 1,270sqm of commercial uses including hotel use (Use Class C1), retail uses (Use Class A1) and / or restaurant/cafe uses (Use Class A3); hard and soft landscaped open spaces, including children's play facilities, surface parking for vehicles and bicycles, alterations to existing vehicular and pedestrian access and highway layout, site levelling and groundworks, and all necessary supporting infrastructure and services. Full application for a 2,961sqm leisure centre (Use Class D2), including associated parking, open spaces and children's play facility.	Approved
21/1182/FH/CON	Approval of details pursuant to conditions 15, 16 & 17 of Y17/1042/SH	Approved
21/1209/FH	Formation of a new badger sett including associated earthworks	Approved

## 5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

## Consultees

### **Hythe Town Council:** Objection

Object on the grounds that there is insufficient details. It is not in keeping with the beach affected, will discourage use of the beach and will cause pollution into the sea.

### **KCC Ecology:** No objection.

- The proposal is located within area covered by the ecological mitigation strategy 21/1182/FH/CON.
- It would have been preferable if the ecologist letter had clearly set out what aspects of the mitigation strategy had to be completed to prior to the commencement of the works associated with this application.
- The ecological mitigation agreed under 21/1182/FH/CON must be carried out as this is a separate application to the original hybrid application
- They understand that the beach is recharged regularly and if this is the case there is no need for a specific mitigation strategy.
- If works are being carried out during the bird breeding season and further survey will be required and if breeding birds are found works should cease until the young have fledged.
- This should be specified within a construction management plan.

### **KCC Public Rights of Way:** No comments to make.

### **KCC Highways and Transportation:** No comments to make.

### **KCC Archaeology:** No objection.

It is unlikely that the proposed works would have a significant impact at this location.

### **KCC Flood and Water Management:** No objection.

Estimation of required volume for tide-locking scenario in an extreme event has been provided and calculations have been included to model the proposed network. The report includes assessment of situation where contributions would be made to the Royal Military Canal. Mitigation is proposed to manage extreme events and KCC agrees with the approach.

### **Natural England:** No objection.

### **Environment Agency:** Objection.

Pending further response

### **Southern Water:** No objections

The Council's technical and the relevant authority should be consulted.

### **Historic England:** Do not wish to offer any comments

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**Contamination Consultant:** Has not objected but requested a condition to ensure that contamination remediation details are submitted and are compatible with the hybrid application. No works are to take place until these remediation details are agreed and signed off.

**Environmental Protection Officer:** No comments.

## Local Residents Comments

5.2 95 neighbours directly consulted. 16 letters of objection have been received. Objections made to the wider approved development of the site have not been included as they do not specifically relate to the application under consideration.

I have read all of the letters received. The list of key issues is summarised below:

### Objections

- This application seeks to change the storm water drainage method from the scheme that was granted.
- The plans for present application (21/1997/FH) shows that the Principal Development is not in accordance with original scheme.  
**[CPO Comment:** The plans have been checked and have been found to be accurate.]
- Insufficient information.
- The EA have objected as the development needs a flood risk activity permit.
- No images are provided so it is impossible to judge the visual impact on the beach.
- The structures will be off putting to current users of the beach and will give rise to concern that polluted water is being discharged into the sea.
- The contamination report which has been submitted is incomplete and has no conclusion or interpretation of the results.
- No information which explains how the water will be treated before it is discharged into the sea.
- Not in keeping with the beach.
- Will cause pollution into the sea.
- Does the original plan still exist whereby there would be a one and a quarter acre attenuation pond at the western end and large tanks underground at the front of the development?
- Not satisfied that the scheme will be sufficient.
- Risk of contamination and harm to health.
- Increase in flooding.
- Due to the current Climate emergency there has been very exceptional rate of rainfall throughout the country and there is a great risk of flooding in coastal areas.



# DCL/21/42

- The shingle on the beach is forever moving and the crest of the beach may not be as stated in years to come.
- FHDC have been premature in all their actions so far relating to the development site and things are being rushed without proper investigations being done.

5.5 Responses are available in full on the planning file on the Council's website:

<https://searchplanapps.folkestone-hythe.gov.uk/online-applications/>

## 6. RELEVANT PLANNING POLICY

6.1 The Development Plan comprises the Places and Policies Local Plan 2020 and the Core Strategy Local Plan 2013.

6.2 The Folkestone & Hythe District Core Strategy Review Submission Draft was submitted to the Secretary of State on 10 March 2020. Inspectors were appointed to examine the plan on 19<sup>th</sup> March 2020 and public hearings were held from 15<sup>th</sup> to 18<sup>th</sup> December 2020, from 5<sup>th</sup> to 12<sup>th</sup> January 2021 and from 29<sup>th</sup> June to 1<sup>st</sup> July 2021. The Inspectors wrote to the council on 1<sup>st</sup> July 2021 to state that the Core Strategy Review complies with the duty to cooperate and can be made 'sound' by amendment through main modifications. The Inspectors followed up their initial assessment by letter on 16<sup>th</sup> July 2021, stating that, subject to main modifications concerning detailed policy wording, they consider that the plan's spatial strategy and overall approach to the district's character areas and settlements is sound. The Inspectors find that the housing requirement is justified and that the Core Strategy Review will provide an adequate supply of housing over the plan period and at least a five year supply of housing land at the point of adoption. In accordance with National Planning Policy Framework (2021) paragraph 48, the policies in the Core Strategy Review should therefore be afforded significant weight, having regard to the Inspectors' outline of main modifications required.

6.3 The relevant development plan policies are as follows:-

### Places and Policies Local Plan 2020

- Policy UA18 – Princes Parade, Hythe
- Policy HB1 – Quality Places Through Design
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- Policy NE2 – Biodiversity
- Policy NE7 – Contaminated Land
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- Policy HE1 – Heritage Assets
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### Core Strategy Local Plan (2013)

- Policy DSD – Delivering Sustainable Development
- Policy SS1 – District Spatial Strategy
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Policy SS5 – District Infrastructure Planning

Policy CSD1 – Balanced Neighbourhoods for Shepway

Policy CSD2 – District Residential Needs

Policy CSD4 - Green Infrastructure of Natural Networks, Open Spaces and Recreation

Policy CSD5 – Water and Coastal Environmental Management in Shepway

Policy CSD7 – Hythe Strategy

## Core Strategy Review Submission draft (2019)

Policy SS1 – District Spatial Strategy

Policy SS2 – Housing and the Economy Growth Strategy

Policy SS3 – Place Shaping and Sustainable Settlements Strategy

Policy SS5 – District Infrastructure Planning

Policy CSD1 – Balanced Neighbourhoods for Shepway

Policy CSD2 – District Residential Needs

Policy CSD4 – Green Infrastructure of Natural Networks, Open Spaces and Recreation

Policy CSD5 – Water and Coastal Environmental Management in Shepway

Policy CSD7 – Hythe Strategy

6.4 The following are also material considerations to the determination of this application.

### **Government Advice**

#### National Planning Policy Framework (NPPF) 2019

Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:-

Paragraph 11 - Presumption in favour of sustainable development.

Paragraph 47 - Applications for planning permission be determined in accordance with the development plan.

Paragraph 48 – Giving weight to emerging plans.

Paragraph 127 -130 – Achieving well designed places.

Paragraph 174 - Conserving and enhancing the environment

Paragraph 180 – Mitigation and compensation for harm to biodiversity and habitats.

Paragraphs 183 & 184 – Development and contamination.

Paragraph 194 – Proposals affecting heritage assets

Paragraphs 199 – 205 – Considering potential impacts on heritage assets.

## 7. APPRAISAL

- 7.1 The principle of the overall development of which this site forms a part, has been established by the grant of permission for development of the wider site. The two outfall pipes would be small in scale and located in a position to serve the whole development. As such the principle of the development is considered to be acceptable.
- 7.2 Given the above, the main considerations are the following issues:
- a) Visual amenity
  - b) Contamination
  - c) Ecological implications
  - d) Flood risk/maintenance of the RMC bank

### a) Visual amenity

- 7.3 Policy HB1 states that planning permission should be granted where the proposal makes a positive contribution to its location and surroundings, enhancing integration while also respecting existing buildings and land uses, particularly with regard to layout, scale, proportions, massing, form, density, materiality and mix of uses so as to ensure all proposals create places of character.
- 7.4 Due to the small scale of the proposal relative to the buildings that have been approval around it, the drainage pipes would not have a significant visual impact when viewed in the context of the wider site. The materials proposed are typical of outfall pipes, as is the construction and as such it is not considered that a reasonable objection could be sustained on these grounds, particularly given that the majority of the works would be below ground.
- 7.5 It is acknowledged that the visual impact would be at its most significant when viewed from the beach, although it is also acknowledged that a similar situation exists at the beach in Sandgate and in many circumstances along British coastlines.
- 7.6 For the reasons set out above it is considered that the application meets the criteria of the aforementioned policies and as such there are no objections on these grounds.

### b) Contamination

- 7.9 In the 1930s the wider site was used for gravel extraction and in the 1960s and 1970s it was used as a refuse tip, leading to contamination and raised land levels. A contamination report has been submitted with the application.
- 7.10 The Council's Contamination Consultant has not objected to the application and has requested conditions to ensure that remediation details are submitted for this site as well as the approved application to ensure that the application does not give rise to any contamination issues in its own right. Further information concerning drainage details from the wider site will be submitted with a subsequent application and these details will need to ensure that water that may be at risk of contamination from historic

uses would not enter the drainage system. These conditions have been attached and as such no objection is raised on these grounds.

## **d) Ecology**

- 7.11 The Ecology Method Statement (EMS) which has now been approved under 21/1182/FH/CON requires a number of actions to mitigate ecological harm which KCC Ecology have recommended should be dealt with prior to this application being implemented. This is considered to be a sensible approach and as such a condition has been attached accordingly.
- 7.12 KCC highlight that the development itself would not have an impact on ecology other than on wintering birds on the beach when it is being constructed. To address this KCC have requested a condition to ensure that breeding birds are protected in the wintering period to ensure there is no harm to the population. This is considered to be appropriate. Subject to this, it is considered that it has been satisfactorily demonstrated that any impacts on other wildlife and habitats can be mitigated to an acceptable level which addresses the concerns raised by KCC Ecology.

## **e) Flood Risk/Maintenance of the RMC**

- 7.13 The EA initially objected to the scheme on the impact to the Royal Military Canal, however they have withdrawn their objection providing the mitigation measures set out in the Ecological Method Statement (previously approved) are adhered to. They note that access to the 8m bylaw margin required by the EA would be maintained. The scheme is therefore considered to be acceptable on these grounds.

## **e) Other issues**

- 7.14 In terms of impact on the scheduled monument (RMC) it is not considered that the scheme would cause any harm. The western outfall would be 82.8 m to the south of the RMC and the eastern outfall would be 74.8m to the south. The future development site would also be located in between the pipes and the RMC. It is therefore not considered that the proposal would cause any harm to the setting of the heritage asset.
- 7.15 I note concerns raised in public consultation that the proposal is a different method of draining for the Principe Parade development. It should be highlighted that the hybrid application approved two options for drainage, with the less favourable out of the two was drainage to the RMC. The option to drain to the beach was included within the thinking for the hybrid application, while acknowledging that the development would need to secure the drainage to the beach under a separate application. This submission achieves this and provides what is considered to be a more acceptable solution for the drainage needs of the site.
- 7.16 In terms of the potential pollution of the beach by surface water draining to the site, it should be highlighted that the existing Princes Parade road already drains to the shingle beach. Furthermore the existing drainage is unlikely to involve any oil interceptors. Whereas any surface water passing through the pipes subject of this application would have been subject to an oil interceptor and as such the surface water

entering the beach would at worst be the same as at present if not demonstrably cleaner. It is therefore considered that the solution proposed in this application is acceptable and could bring about positive change over the existing situation.

## **Environmental Impact Assessment**

- 7.15 In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1& 2 of the Regulations and it is not considered to fall within either category and as such does not require screening for likely significant environmental effects in its own right. It is however noted that the wider site was submitted with an Environmental Statement.

## **Human Rights**

- 7.16 In reaching a decision on a planning application the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.

## **Public Sector Equality Duty**

- 7.17 In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:
- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
  - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
  - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

It is considered that the application proposals would not conflict with objectives of the Duty.

## **Working with the applicant**

- 7.18 In accordance with paragraphs 38 of the NPPF, Folkestone and Hythe District Council (F&HDC) takes a positive and creative approach to development proposals focused on solutions. F&HDC works with applicants/agents in a positive and creative manner.

## **8 CONCLUSION**

- 8.1 This application is for two storm water outfall drainage pipes to serve the future development for Princes Parade that already has planning permission. It is considered that there would be no adverse impacts in respect of the Scheduled Monument, ecology, archaeology, contamination, maintenance of the canal, design, visual or residential amenity, and the application is considered acceptable.

## 9. BACKGROUND DOCUMENTS

- 9.1 The consultation responses set out at Section 5.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

## 10. RECOMMENDATIONS

**That planning permission be granted subject to the following conditions and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.**

### Conditions:

1. The development hereby permitted must be begun within three years of the date of this permission.

Reason:

As required by Section 91 of the Town and Country Planning Act 1990.

2. The development, which only includes the area of land identified in red on the site location plan, hereby permitted shall be carried out in complete accordance with the following plans and details: Site location plan HC-1494-500, Indicative Surface Water Drainage Layout HC-1494-501 Sheet 1, Indicative Surface Water Drainage Layout HC-1494-501 Sheet 2, Indicative Surface Water Drainage Layout HC-1494-501 Sheet 3, Outfall Details Drawing Western Outfall HC-1494-502, Outfall Details Drawing Eastern Outfall HC-1494-502, Surface Water Drainage Ownership and Maintenance Plan HC1494-504 Sheet 1, Surface Water Drainage Ownership and Maintenance Plan HC-1494-504 Sheet 2, Surface Water Drainage Ownership and Maintenance Plan HC1494-504 Sheet 3, SK21\_Porous& Non-Porous Finishes Drainage report, Flood Risk Assessment and Drainage Strategy, Ecology letter by Lloyd Bore and Contamination report. Any other alternation not within the red line of the application site do not form part of this application and are therefore not approved here.

Reason:

For the avoidance of doubt and in order to ensure the satisfactory implementation of the development.

3. Prior to commencement of the development hereby permitted, a preliminary ecological appraisal (PEA) shall be carried out, the results and recommendations of which shall inform a detailed mitigation strategy to be submitted as part of condition 4 of this planning permission.

Reason:

In order to ensure up to date information is available to inform appropriate mitigation against the environmental effects of the development.

4. Prior to commencement of the development hereby permitted, a detailed Ecological Method Statement (EMS) (informed by the submitted Ecological Mitigation and Enhancement Plan, Lloyd Bore, August 2017; Appendix 4:

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Scheduled of Environmental Mitigation; Appendix 5: Ecological Mitigation Strategy, Lloyd Bore REF: 3609-LLB-RP-EC-0010-S4-P04 03/07/2018; Appendix 6: Reptile report, Lloyd Bore, REF: 3609-LLB-RP-EC-0011-S4-P01; Appendix 7: Badger Report, Lloyd Bore REF 3609-LLB-RP-EC-0015 | 3609-LLB-RP-EC-0015-S4-P02\_ECOLOGY METHOD STATEMENT | PRINCES PARADE, HYTHE (FHDC) 4 STATUS: PLANNING NO. 3609-LLB-RP-EC-0012-S4-P02 03//07/2018) shall be submitted to and approved in writing by the Local Planning Authority. The content of the EMS shall include but not be limited to:

- a) Purpose and objectives for the proposed works, to include the eradication of Japanese knotweed from the site;
- b) Detailed design(s) and/or working method(s) necessary to achieve stated objectives;
- c) Extent and location of proposed works, including the identification of a suitable receptor site, shown on appropriate scale maps and plans;
- d) Timetable for implementation, demonstrating that works are aligned with the proposed phase of construction;
- e) Persons responsible for implementing the works, including times during construction when specialist ecologists need to be present on site to undertake / oversee works;
- f) Use of protective fences, exclusion barriers and warning signs;
- g) Initial aftercare and long-term maintenance (where relevant);
- h) Disposal of any waste material;
- i) Interim management plan to ensure habitats created / enhanced as part of the mitigation strategy will be managed appropriately;
- j) Details of ongoing monitoring.

The works shall be carried out in accordance with the approved details and retained as required thereafter.

Reason:

In order to ensure appropriate mitigation against the environmental effects of the development.

5. Prior to the commencement of any habitat clearance works in relation to the development hereby permitted, a habitat creation plan shall be submitted to and have been approved in writing by the Local Planning Authority. The habitat creation plan shall clearly set out the habitats which will be created as part of the development hereby permitted. The approved plan shall inform the overarching Ecological Method Statement that is required to address Condition 4 and shall be incorporated into that document. Any habitat clearance works shall only occur in accordance with the approved details.

Reason:

In order to ensure appropriate mitigation against the environmental effects of the development.

6. Prior to commencement of the development hereby permitted details of the implementation, maintenance and management of the scheme and how it relates

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to the drainage measures required for hybrid application Y17/1042/SH shall be submitted to and have been approved in writing by the Local Planning Authority. The approved details shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include: a) A timetable for its implementation; and b) A management and maintenance plan for the lifetime of the development to secure the operation of the sustainable drainage system throughout its lifetime.

Reason:

To ensure that any measures to mitigate flood risk and protect water quality on/off the site are fully implemented and maintained.

7. No development is to take place during the bird breeding season unless pre-commencement surveys are submitted to and approved in writing by the Local Planning Authority beforehand which shall demonstrate no breeding birds are present. Development shall be carried out in accordance with the approved details.

Reason: In order to safeguard wildlife on site.

8. a) Prior to commencement of the development hereby permitted a desk top study shall be undertaken and submitted to and have been approved in writing by the Local Planning Authority. The study shall include the identification of previous site uses, potential contaminants that might reasonably be expected given those uses and any other relevant information. Using this information, a diagrammatical representation (Conceptual Model) for the site of all potential contaminant sources, pathways and receptors shall also be included.

b) If the desk top study shows that further investigation is necessary, an investigation and risk assessment shall be undertaken by competent persons and a written report of the findings shall be submitted to and have been approved in writing by the Local Planning Authority prior to commencement of the development. It shall include an assessment of the nature and extent of any contamination on the site and whether or not it originates on the site. The report of the findings shall include:

- i) A survey of the extent, scale and nature of contamination
- ii) An assessment of the potential risks to;
- iii) Human health
- iv) Property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- v) Adjoining land,
- vi) Ground waters and surface waters,
- vii) Ecological systems,
- viii) Archaeological sites and ancient monuments and
- ix) An appraisal of remedial options and identification of the preferred option(s). All work pursuant to this Condition shall be conducted in accordance with the DEFRA and Environment Agency document Model Procedures for the Management of Land Contamination (Contamination Report 11).



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c) If investigation and risk assessment shows that remediation is necessary, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The scheme shall include details of all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works, site management procedures and a verification plan. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The approved remediation scheme shall be carried out in accordance with the approved terms including the timetable, unless otherwise previously agreed in writing by the Local Planning Authority. The Local Planning Authority shall be given two weeks written notification of commencement of the remediation scheme works.

d) Prior to commencement of development, a verification report demonstrating completion of the works set out in the approved remediation scheme and the effectiveness of the remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include details of longer-term monitoring of pollutant linkages and maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.

e) In the event that, at any time while the development is being carried out, contamination is found that was not previously identified, it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be undertaken and where remediation is necessary a remediation scheme shall be prepared. The results shall be submitted to the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report shall be prepared and submitted to and approved by the Local Planning Authority before any further development takes place on that phase of the development, unless otherwise agreed in writing by the Local Planning Authority.

Reason:

To protect the development and surrounding environment and human health against contamination and pollution.

Informative:

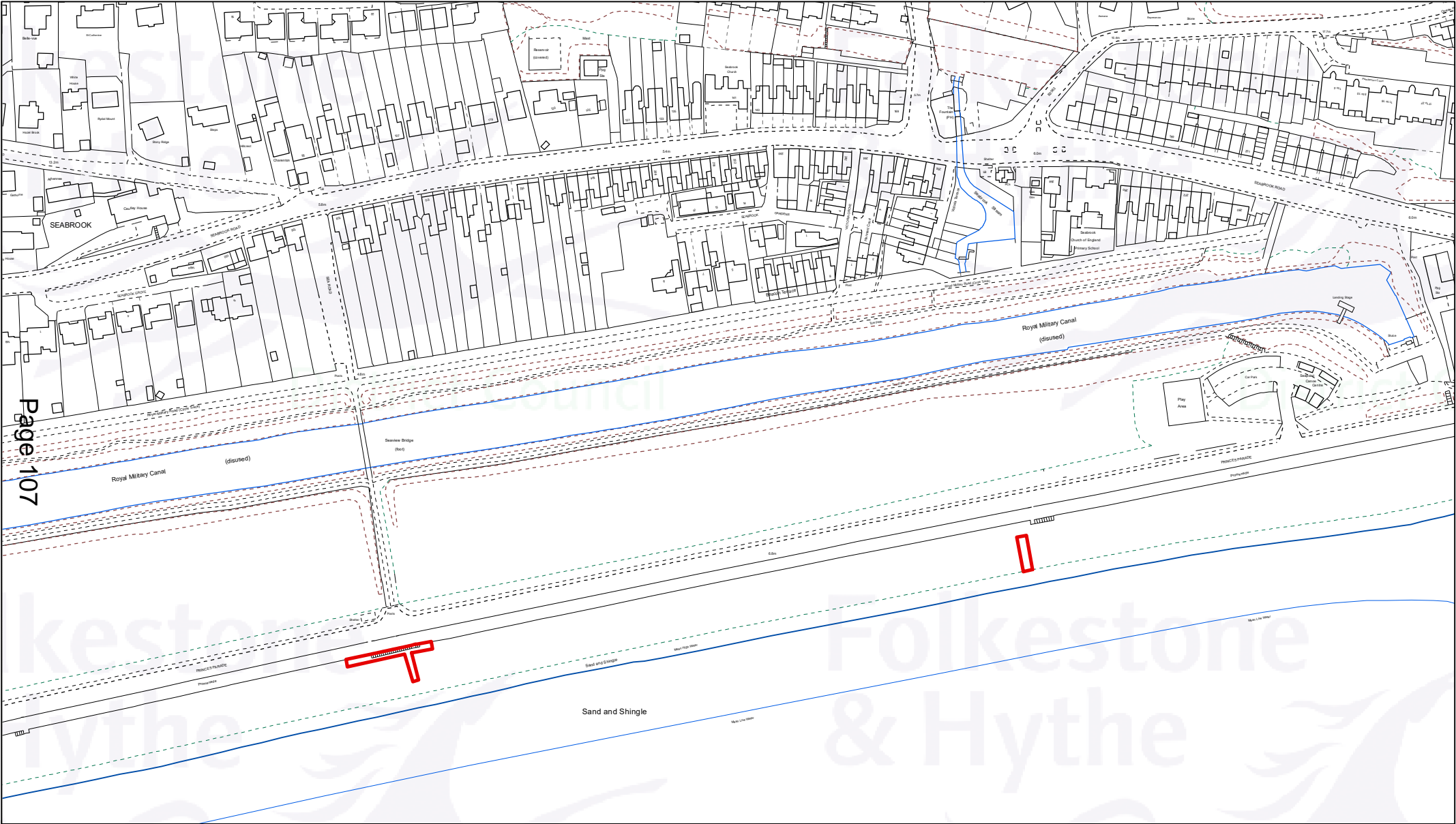
The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. Trees, scrub,

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hedgerows and buildings are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.

# Princes Parade Promenade, Princes Parade, Hythe

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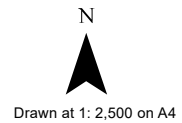
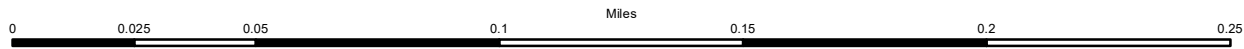
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02 Dec 2021

Drawn by:  
Brian Harper

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# Agenda Item 8

## DCL/21/45

<b>Application No:</b>	20/2085/FH
<b>Location of Site:</b>	Motis Business Centre, Cheriton High Street, Folkestone CT19 4QJ
<b>Development:</b>	Erection of 6 x commercial units for Class E (specifically for office, research & development and industrial) and Class B8 purposes, extension of existing centre to provide further Class E office floorspace, children's nursery, cafe and gym and the provision of a 115no. space truck stop, a transhipment building, along with an ancillary welfare facilities and office building, including access, parking and landscaping.
<b>Applicant:</b>	Motis Ireland Ltd
<b>Agent:</b>	Matthew Garvey, DHA Planning
<b>Officer Contact:</b>	Robert Allan

### SUMMARY

This application seeks permission for the erection of six commercial units for Class E and Class B8 purposes, an extension of the existing business centre to provide further Class E office floorspace as well as a children's nursery, cafe and gym, and the provision of a 115 space truck stop with a transhipment building, ancillary welfare facilities and office building, together with access, parking and landscaping. The site is allocated for approximately 65% of the total office supply in Folkestone and 30% of the total office supply in the district as a whole, with insufficient evidence supplied to adequately establish that there is an overwhelming need for additional HGV parking within the Folkestone & Hythe combined with a lack of demand for office space that would override the loss of strategically important employment allocation. Furthermore, the presence of lowland dry acid grassland within the adjacent SSSI cannot be completely ruled out and further air quality assessment work would be required to determine whether the development will result in any ecologically significant nitrogen deposition within this area of the SSSI, with potential for harm to a nationally important site should development proceed. The application is recommended for refusal on these two grounds. All other matters relating to visual amenity / design, impact on the AONB and SLA, residential amenity, contamination, drainage, archaeology and highway safety are considered to be acceptable.

### RECOMMENDATION:

<b>That planning permission be refused for the reasons set out at the end of the report.</b>
--

#### 1. INTRODUCTION

- 1.1. The application is reported to Committee at the request of Cllr David Wimble on grounds that a change of use would make more sense as people are not renting office space and the proposal would make a more valued contribution to the local district. .

## 2. SITE AND SURROUNDINGS

- 2.1. The application site is approximately 3.51 ha in size, is located immediately south of the M20 and is accessed via Cheriton High Street. It currently comprises an existing office unit/conference centre, otherwise referred to as Motis Business Centre, and car park to the south and west of the site which provides in excess of 200 spaces. The remainder of the site comprises grassland and scrub.
- 2.2. The Motis Business Centre building was converted into approximately 2,695 sqm (29,000 sqft) of managed office suites in 2017/18 providing a total of 27 managed office suites starting from 15 sqm (160 sqft) in size, all of which benefit from use of shared facilities within the building. The building also provides serviced meeting rooms as well as virtual office facilities and desk space.
- 2.3. The site is located within the defined settlement boundary. The western end of the site is located within the designated Kent Downs Area of Outstanding Beauty (AONB) and North Downs Special Landscape Area (SLA) and the whole site lies within Flood Zone 1 and is in an area of archaeological notification for major applications. Public footpath HF55 runs along the northern boundary of the site, although outside of the application site, and connects to the wider Public Right of Way Network.
- 2.4. The site's surrounds comprise a mix of commercial and former Ministry Of Defence uses. The M20 forms the site's northern boundary, and the Southeastern London to Folkestone railway line forms the south. Cheriton Business Parc lies to the eastern boundary and comprises a series of commercial units, as well as a Holiday Inn Express hotel. Cheriton lies further beyond, to the south east of the site.
- 2.5. A site location plan is attached to this report as **Appendix 1**.

## 3. PROPOSAL

- 3.1 The proposal seeks full planning permission for the erection of six Class E(g) (specifically office, research and development and industrial uses) and B8 (storage or distribution) commercial units, and the extension of the existing Motis office building to provide further Class E floor space, including offices, a children's nursery, café, and gym. The proposal also includes the provision of a 115 space truck stop with ancillary welfare facilities, transhipment building and office. The eastern end (Figure 1) and western end (figure 2) of the site can be seen below:



Figure 1

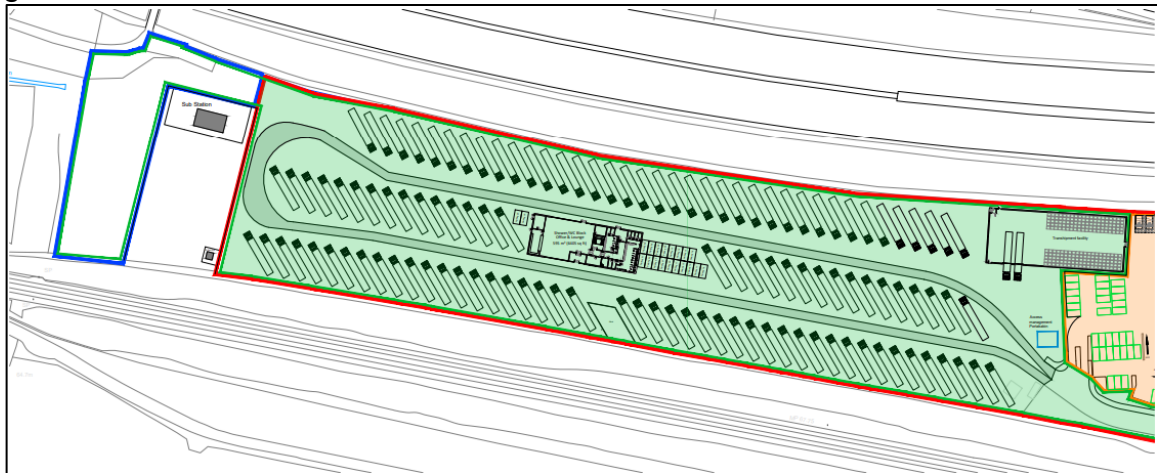


Figure 2

3.2 The planning application seeks to extend the existing Motis Business centre building along its eastern elevation in order to provide additional floor space across two floors. Front and rear elevations are shown below in figure 3. At first floor level, the extension will provide an additional 555sqm (5,972sqft) of office floor space. At ground floor level, the extension would provide a gym with WC and shower facilities, measuring 254sqm (2,733sqft), a nursery measuring 168sqm (1,807sqft) and a café measuring 115sqm (1,237sqft). These facilities will be accessible to the general public, although it is largely expected that users will comprise of employees from a local catchment area.

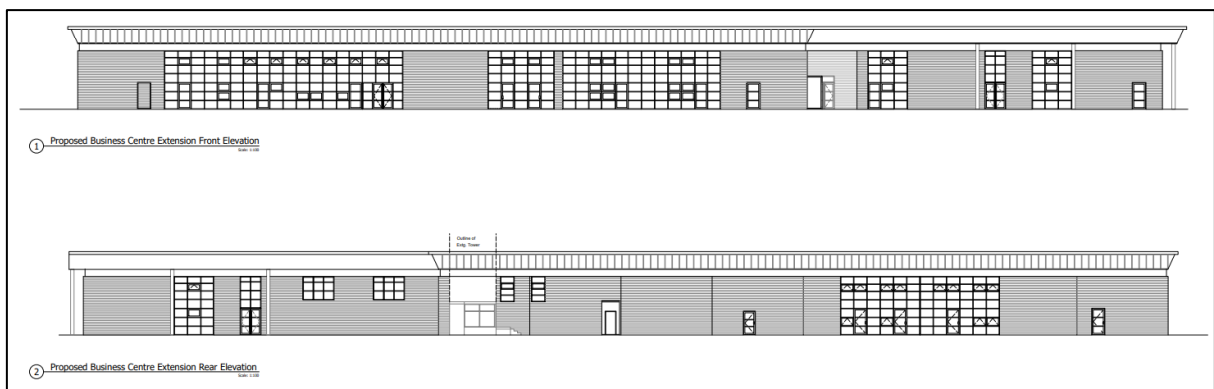


Figure 3: Motis extension

3.3 The proposed development also includes the construction of six SME (small and medium sized enterprises) business units in the south eastern corner of the site, within the existing car parking area. These will be two storeys, with a gently sloping flat roof and a ridge height of approximately seven metres and having a modern and utilitarian form. Elevations are shown in figure 4. The units would be self-contained and served by separate access and roller shutter doors in the front elevation. The internal accommodation would be arranged over two floors, the first floor being a mezzanine level, with separate W.C facilities at ground floor level.

Unit	Size (sqft)	Size (sqm)
1	1270	118
2	1270	118
3	1248	116
4	1291	120
5	1248	116

6	1270	118
<b>Total</b>	<b>7597</b>	<b>706</b>

3.4 The western section of the site will serve as the lorry park, providing 115 HGV parking spaces for overnight stay, arranged over three rows. This would represent approximately 59% of the site area. A two-storey drivers lounge/amenity building is proposed at the centre of the of the lorry park measuring 1,134sqm (1,220sqft). This will provide a drivers dining area and lounge, internet rooms, reception, W.C and bathroom facilities and kitchen areas at ground floor level with offices, training areas, a management suite for Motis and separate W.C and kitchen facilities at first floor level. The front and rear elevation can be seen in figure 5.

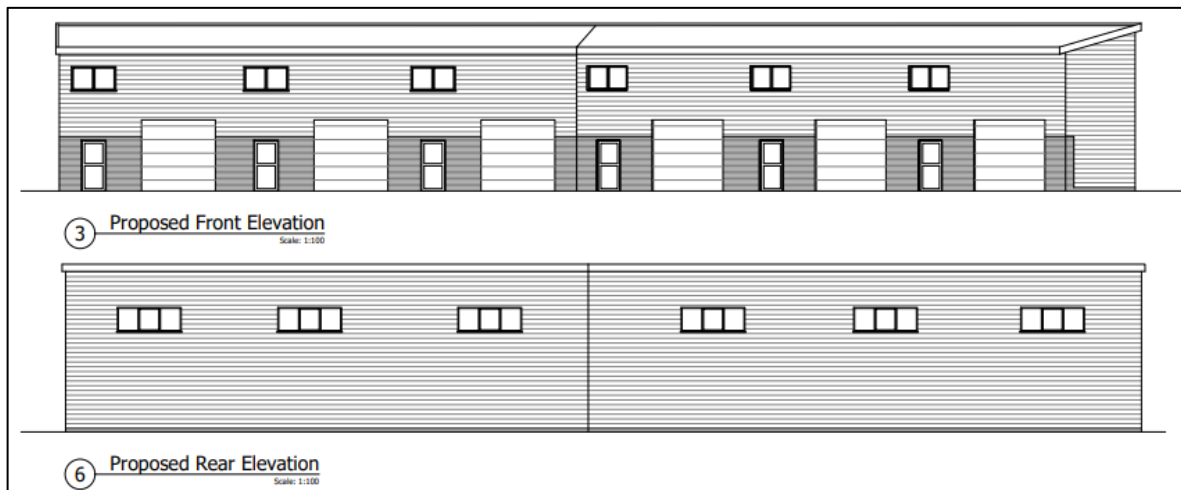


Figure 4: business units



Figure 5: drivers' amenity lounge

3.5 The proposal includes the construction of a transshipment building measuring 958sqm (10,308sqft) in the north eastern corner of the lorry park, adjacent to the existing Business Centre. This will form a utilitarian industrial building with roller shutters to accommodate two lorries at one time. The facility would operate under a pre-booking system, which would be exclusively available for Motis account holders. The site will be monitored via Automatic Number-plate Recognition (ANPR) and manned 24/7 with Truck Marshalls. The front and rear elevations can be seen in figure 6.



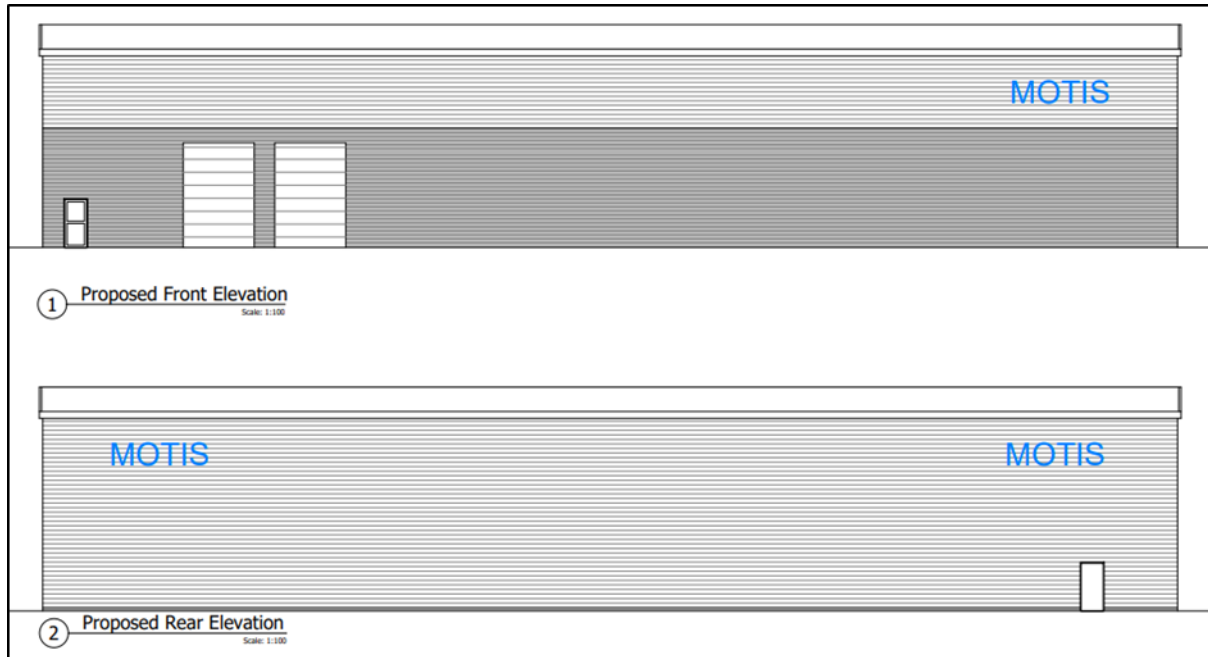


Figure 6: transshipment building

- 3.6 The applicant has also proposed the widening of a section of Cheriton High Street to six metres, apart from a short section measuring 15 metres.
- 3.7 The following reports were submitted by the applicant in support of the proposals:

#### Design and Access Statement

- 3.8 This document describes the site and surrounding area, including constraints and considerations, the current use of the site, what is proposed for the site, the design development history, and considers issues of layout, circulation and access, scale, massing and appearance, landscaping and sustainability. It also sets out the activities of Motis in the UK and Europe and identifies the applicants perceived benefits from the scheme, the requirement for the proposal and also sets out some of the broad operational parameters for the proposed use.

#### Planning Statement

- 3.9 This document identifies the background to the stated demand for the proposed facilities and also sets out the perceived benefits of the proposal through the provision of a truck stop that would accommodate demand from increasing freight traffic and help reduce illegal HGV parking, as well as providing additional flexible office space for small-medium sized businesses, a nursery, gym and café and other offices associated with the lorry-park use. It further sets out that there would be no impact upon the nearby Cheriton shopping area or the character and appearance of the AONB; it analyses the likely vehicle movements associated with the development and the highway impact, as well as setting out the proposed works for the widening of Cheriton High Street. Flooding, noise, ecology, contamination and air quality (as set out in separate documents supporting the application) are all stated to be acceptable and the document concludes that the proposal will deliver benefits to through the

delivery of a truck stop and in making a contribution to employment land supply through the provision of additional commercial floor space.

## Air Quality Assessment (AQA)

- 3.10 This document identifies that the proposals have the potential to cause air quality impacts as a result of dust emissions during construction and road traffic exhaust emissions associated with vehicles travelling to and from the site during operation. It concludes that the use of good practice control measures would provide suitable mitigation and reduce potential impacts to an acceptable level in respect of dust, whilst predicted air quality impacts as a result of traffic generated by the development were not significant at any sensitive location in the vicinity of the site.

## Ecological Air Quality Screening

- 3.11 This document identifies that although the Seabrook Valley SSSI designation is situated within 200m of an affected road link, sensitive site features are unlikely to be present within the relevant distance criteria and in accordance with NE guidance, the proposed development is unlikely to have a significant air quality impact on the designation, with further assessment not considered to be necessary.

## Phase 1 Desk Study

- 3.12 This document determines the contaminative status of the site and provides a general indication of the likely geoenvironmental issues which may be present on site or affect the site, as well as to providing guidance on any resultant liabilities. Information on likely geotechnical conditions and hazards is also assessed. It determines that it is unlikely that contamination is present on site.

## Transport Statement (TS)

- 3.13 This document covers the broad elements of a Transport Statement with regards the employment usage, and also discusses the implications of additional HGV movements from the overnight lorry parking, concluding that there are no transport concerns being shown for either of the elements of the proposal as the cumulative increase in vehicle traffic is minimal and there are no safety concerns regarding the small increase in the frequency of HGVs passing each other, mitigated through road widening. The employment proposals are stated to be suitable for this location as evidenced in the emerging policies in the Folkestone and Hythe Places and Policies Local Plan, as supported by a review of walking, cycling and public transport facilities in this assessment.

## Preliminary Ecological Appraisal (PEA)

- 3.14 This document was produced to explore potential ecological constraints, considerations and opportunities and the potential need for additional ecological survey work at the application site. It concludes that:
- on-site hedgerow and boundary woodland will need to be protected during the construction stage;
  - a badger walkover survey is required to identify whether there are any badger setts present on site;

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- a bat activity survey will need to be completed to assess if / how the site is used by foraging and/or commuting bats, and therefore whether the loss of suitable bat foraging and commuting habitat and the proposed illumination of the site will significantly adversely affect the local bat population;
- a bat-sensitive lighting scheme will need to be delivered on the application site, especially adjacent to site boundary habitats;
- a botanical walkover survey of the 15m wide band of the SSSI that falls within the 200m radius from the road assessed will need to be undertaken;
- no vegetation or ground clearance works should be undertaken until the results of the additional ecological surveys are known.

## Noise Impact Assessment (NIA)

3.15 This report sets out the assessment methodology adopted and evaluates the results of operational noise relative to agreed acoustic design criteria. An assessment was conducted of noise levels generated by operations on the site, including predicting noise levels at the nearest noise-sensitive receivers, showing that the scheme meets the set noise limits at the noise-sensitive receivers and demonstrating that operational noise from the scheme would be considered to be below the Lowest Observable Adverse Effect Level (LOAEL).

## Flood Risk and Surface Water Drainage Strategy

3.16 This report appraises the risk of flooding from all sources and provides a sustainable solution for managing the surface water runoff discharged from the development site. It concludes that the risk to the proposed development is low and that infiltrating runoff into the ground will present the most viable solution for managing runoff from the proposed development through a combination of permeable surfacing and soakaways.

## Landscape and Visual Impact Assessment

3.17 This document:

- describes the existing baseline conditions with regard to key landscape components and identifies the landscape character areas (LCAs) that result from the combination of these components for the application site and wider study area;
- appraises the existing landscape in terms of character and views, and establishes its ability to accommodate change in relation to the proposed development;
- describes the anticipated changes resulting from the proposed development and assess the 'magnitude of change' upon landscape character and views;
- determines the nature of effect of identified impacts with regard to scale, duration permanence and value.

It concludes that the application site has a high capacity to accommodate the proposed development. Its visual impact is low when seen from afar and can be mitigated within the design of the proposed development. It is concluded that the proposed development is of an appropriate type, scale massing and appearance for its setting, and although the landscape and visual character of the site itself would be changed, this would not cause an adverse change in the prevailing landscape and visual character of the wider area, including the AONB and SLA.

## Landscape Masterplan

3.18 This document is a visual representation of proposed planting to site boundaries with mixed native-species hedgerow in order to reinforce the existing planting.

## 4. RELEVANT PLANNING HISTORY

4.1 The relevant planning history for the site is as follows:

94/0443/SH	Outline application for office development with associated car parking and landscaping (as amended by drawing no. CHP/00/03C and letters dated 8th and 13th September 1994)	Approved
97/0803/SH	Change of Use from cafe/exhibition area to offices, conference centre and customer information point.	Approved
Y01/0303/SH	Variation of condition 2 of outline planning permissions 97/0766/SH (renewal of outline planning permission) for office development with associated car parking and landscaping.	Approved
Y03/1157/SH	External alterations including replacement of existing cladding and windows, and minor alterations to the car parking area.	Approved
Y05/0294/SH	Outline application for the erection of 9 no. buildings to include: creche, medical provision/clinic, hotel, offices and business startup units together with new vehicular access.	Approved
Y/11/0265/SH	Erection of first floor extension under existing canopy to provide accommodation for security staff.	Approved
Y11/0757/SH	Section 73 application to vary condition 4 of planning approval Y/11.0265/SH for erection of first floor extension under existing canopy to provide accommodation for security staff to allow construction of enclosed/covered fire escape to north facing elevation and changes to elevational treatment.	Approved
Y/17/0845/SH	Change of use of exhibition centre and church (Class D1) into managed office suites (Class B1) with new shop fronts and glazing and other external alterations, together with gates, fencing and footpaths.	Approved
Y/18/0003/NMA	Non material amendment to application Y17/0845/SH (change of use of exhibition centre and church (Class D1) into managed office suites (Class B1) with new shop fronts and glazing and other external alterations, together with gates, fencing and footpaths) to allow internal layout alterations, and external glazing changes.	Approved

## 5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

### Consultees

**Folkestone Town Council:** Object – littering, light pollution, noise pollution, emission near to residential properties

**KCC Highways and Transportation:** No objection subject to conditions

**Highways England:** No objection

**KCC Ecology:** No objection

**KCC Public Rights of Way:** No comments received

**KCC Flood and Water Management:** No objection subject to condition

**Natural England:** No objection

**Environment Agency:** No objection subject to conditions

**Kent Downs AONB Unit:** Request for enhanced landscape buffering to the west; assessment of night time effects within LVIA; cladding should not match existing, but dark, non-reflective materials should be selected instead.

**Southern Water:** No objection, subject to condition

**Affinity Water:** No objection

**Contamination Consultant:** No objection, subject to condition

**KCC Archaeology:** No objection

**Environmental Health Officer:** No objection

### Local Residents Comments

5.2 Fourteen neighbours directly consulted. One letter of objection, one letter of support received and one letters neither supporting nor objecting to the application.

5.3 I have read all of the letters received. The key issues are summarised below:

### Objection

- Level of rubbish left by lorry drivers currently
- Lorries not paying for parking blocking residential roads

## Support

- East Kent has lost considerable amounts of office space due to permitted development rights
- Demand for flexible office space increasing
- Likely surge in demand predicted for office space, post-lockdown
- Proposed expansion will deliver quality workspace that Folkestone is facing an immediate and pressing demand for
- Truck parking facilities will release pressure from existing road networks
- Employment opportunity

## General Comments

- Existing use generates large amounts of litter
- Lorries churn up grass
- Drainage is a concern
- Is there a need for office space as people work from home
- Extra lighting may impact upon wildlife
- Additional planting would be welcomed to improve biodiversity and mitigate noise
- No cycle paths to site

5.4 Responses are available in full on the planning file on the Council's website:

<https://searchplanapps.folkestone-hythe.gov.uk/online-applications/>

## **6. RELEVANT PLANNING POLICY**

6.1 The Development Plan comprises the Places and Policies Local Plan 2020 and the Core Strategy Local Plan 2013.

6.2 The Folkestone & Hythe District Council Core Strategy Review Submission Draft (2019) was submitted to the Secretary of State on 10 March 2020. Inspectors were appointed to examine the plan on 19<sup>th</sup> March 2020 and public hearings were held from 15<sup>th</sup> to 18<sup>th</sup> December 2020, from 5<sup>th</sup> to 12<sup>th</sup> January 2021 and from 29<sup>th</sup> June to 1<sup>st</sup> July 2021. The Inspectors wrote to the council on 1<sup>st</sup> July 2021 to state that the Core Strategy Review complies with the duty to cooperate and can be made 'sound' by amendment through main modifications. The Inspectors followed up their initial assessment by letter on 16<sup>th</sup> July 2021, stating that, subject to main modifications concerning detailed policy wording, they consider that the plan's spatial strategy and overall approach to the district's character areas and settlements is sound. The Inspectors find that the housing requirement is justified and that the Core Strategy Review will provide an adequate supply of housing over the plan period and at least a five year supply of housing land at the point of adoption. In accordance with National Planning Policy Framework (2021) paragraph 48, the policies in the Core Strategy

Review should therefore be afforded significant weight, having regard to the Inspectors' outline of main modifications required.

6.3 The relevant development plan policies are as follows:-

Places and Policies Local Plan 2020

Policy HB1 - Quality Places Through Design

Policy E1 – New Employment Allocations

Policy CC2 - Sustainable Design and Construction

Policy T1 – Street Hierarchy and Site Layout

Policy T2 - Parking Standards

Policy T4 – Parking for Heavy Goods Vehicles

Policy T5 - Cycle Parking

Policy HE1 - Heritage Assets

Policy NE2 – Biodiversity

Policy NE3 – Protecting the District's Landscapes and Countryside

Policy NE5 – Light Pollution and External Illumination

Core Strategy Local Plan (2013)

Policy DSD - Delivering Sustainable Development

Policy SS1 - District Spatial Strategy

Policy SS3 - Place-Shaping and Sustainable Settlements Strategy

Policy SS4 - Priority Centres of Activity Strategy

CSD4 - Green Infrastructure of Natural Networks, Open Spaces and Recreation

Core Strategy Review Submission draft (2019)

Policy SS1 - District Spatial Strategy

Policy SS3 - Place-Shaping and Sustainable Settlements Strategy

Policy SS4 - Priority Centres of Activity Strategy

CSD4 - Green Infrastructure of Natural Networks, Open Spaces and Recreation

6.4 The following are also material considerations to the determination of this application.

## **Supplementary Planning Guidance/Documents**

Kent Downs AONB Management Plan  
Policies SD1, SD2, BD5 and AEU14

### **Government Advice**

National Planning Policy Framework (NPPF) 2021

Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:-

Paragraph 11 - Presumption in favour of sustainable development

Paragraph 47 - Applications for planning permission be determined in accordance with the development plan

Paragraph 81 - Support economic growth and productivity

Paragraph 109 - Overnight lorry parking facilities

Paragraph 130 - Achieving well-designed spaces

Paragraph 176 - Conserving and enhancing the natural environment

Paragraph 180 - Habitats and biodiversity

## **7. APPRAISAL**

7.1 In light of the above the main issues for consideration are:

- a) Principle of development
- b) Visual amenity / Design
- c) Residential amenity
- d) Ecology and biodiversity
- e) Contamination
- f) Drainage
- g) Archaeology
- h) Highway safety

### **a) Principle of development**

*Cheriton Parc Employment Allocation*



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- 7.2 Places and Policies Local Plan policy E1 – part of the recently adopted Places and Policies Local Plan (September 2020) – lists the employment allocations envisaged to meet the employment needs of the district over the course of the plan period to 2031 and beyond. It includes land at Cheriton Parc for 15,000 sqm of B1a uses – which since September 2020 now fall within Class E(g)(i), being offices to carry out any operational or administrative functions. This represents approximately 65% of the total office supply in Folkestone and 30% of the total office supply in the district as a whole. Outside the significant land allocation at Link Park, the next largest employment allocation in the District that is yet to be developed is Cheriton Parc. Core Strategy policy SS4 also directs commercial development toward major employment sites in accordance with the priority centres of activity strategy and protects B Class (now E) uses.
- 7.3 A degree of flexibility is factored into the policy which allows for a discretionary 25% of non-employment uses where it complements and adds to the attractiveness of the business function of the employment site and provided that their position within the employment site is justified and that the uses comply with other retail and leisure policies. In this respect, the 537sqm of proposed café, nursery and gym (all of which now fall within Use Class E) on the ground floor of the proposed extension to the Motis Business Centre would not exceed the 500sqm gross threshold (a locally set threshold recommended as part of the Town Centres Study) for town centre uses as nurseries are not considered to be town centre uses, so a retail impact assessment is not required to be submitted.
- 7.4 The supporting Planning Statement assumes that policy E2 applies to the application site as well. This is not the case. Existing employment sites relate to clusters of economic activity that are actively supporting business uses. The undeveloped area of the application site cannot be both a new employment allocation and an existing employment site. As such officers considers that this policy should not be applicable.
- 7.5 The preparation of the Places and Policies Local Plan was supported by the Employment Land Review (ELR) (2017). In respect of office development it highlights that the supply of office space in Folkestone is comprised of small-to-medium sized offices of older stock, with a limited supply of new office accommodation available in the local market to meet the demand for higher quality office space. Where new office developments have occurred in Folkestone, this new space has mainly been delivered on out-of-centre sites that are strategically located in close proximity to the M20, which makes them more attractive for businesses that require larger sites with good road access. With specific reference to the application site, the ELR it states at para 5.18 that the site benefits from its excellent strategic location and access to the M20, as well as having few barriers to future development, and therefore should be retained for employment uses.
- 7.6 It also recognises at para 8.25 that the key challenge in terms of the future potential office capacity in Folkestone in particular revolves around the delivery of the sizeable office land allocations such as Cheriton Parc. However, it analysed the historic development rates in the district between 2002/03 and 2013/14, identifying that more than 80% of the total employment space delivered in this time was prior to the onset of the economic downturn in 2008, with development levels seemingly yet to recover to pre-recession levels. In addition, it also highlighted the UK-EU referendum in June 2016, and the uncertainty that future arrangements could have on national and local economic change and acknowledges the possibility that delivery of office space at Cheriton Parc may be beyond the Core Strategy Local Plan period. Although at this

stage, it is considered to be too early to establish how this may affect the long term requirements for employment in the district.

- 7.7 The limited development of new office space in Folkestone, as well as in the wider District, has resulted in much of the available stock being increasingly unsuitable to match the demand from occupiers searching for higher quality office facilities. Such a shortage of high quality office space in Folkestone is seen as the main barrier to attracting new firms to the local market, as well as retaining existing firms in the local market as they look to expand or relocate. Particularly on a site with such good access to the M20.
- 7.8 The absence of a good supply of modern offices in the Folkestone & Hythe District is likely to mean that future enquiries for such office space, could be lost to other locations in the sub-region. The applicant has provided an Office Market Report prepared by commercial agents Sibley Pares, which summarises the prevailing issues associated with the Folkestone office market and would appear to support many of the conclusions made by the ELR above.
- 7.9 The Office Market Report draws upon the current Covid-19 pandemic and references businesses such as SAGA who occupied a significant volume of office space at Bouverie House, Middleburg Square and Cheriton Parc House, Cheriton High Street, who are disposing of their buildings with a view to keeping their staff working from home. The report states that disposal of these two buildings have 'flooded the market with a large quantity of office space'.
- 7.10 Both buildings were marketed in December 2020. No office enquiries were made in relation to Bouverie House in the 3 months prior to being placed under offer for a non-office (residential) use. Although Cheriton Parc House received potential investor interest, the purchase of a vacant office building was deemed too much of a risk at this time in the market, with the only offer forthcoming being from a residential developer. This outcome is not surprising. The marketing period coincided with a national lockdown with office workers advised to work from home; in addition to also being mid-way through a transitional period for changes to the Use Classes Order, whereby a 1,500 sqm upper cap on to office to residential conversions was due to come into force on the 1<sup>st</sup> August 2021. It is stated that both properties have now been sold and if changed to alternative uses, this would equate to an approximate loss of over 9,000 sqm of some of the highest grade office space in the Folkestone area, resulting in an even greater deficit of modern office floorspace in the Folkestone area.
- 7.11 The report suggests that the impact of working remotely has fuelled demand for small, serviced office space with a number of office buildings converted to provide this type of space on flexible terms on all-inclusive rental basis to offer incentives to attract tenants. It states that there has been an increase in this type of space and as a result there is a large amount of serviced space available. Locations include Basepoint at Shearway Road, Motis Business Centre on Cheriton High Street, The Glassworks at Mill Bay, 127 Sandgate Road, Aspen House on West Terrace, 32-40 Tontine Street and Bouverie House Business Centre along with some smaller serviced office sites.
- 7.12 The applicant has only provided a list of current available office locations. There is no information on size, cost, availability (sale or lease) or marketing periods of available office space. It is also argued that some of the locations such as 127 Sandgate Road and Aspen House are not directly comparable to the type of modern office space that is set to be lost at Bouverie or Cheriton Parc House; or that the local plan seeks to

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deliver on allocations such as Cheriton Parc in order to meet market demand from potential occupiers for modern, high quality office space with good access to the national highway network.

- 7.13 Whilst it is accepted that there may be a shift in how people work which may impact on demand for office space in the future, it is not believed that it is possible to deduce long term trends or the future form of employment space at this stage as businesses are still regrouping and planning their future operation. The ELR emphasises that existing office allocations in Folkestone such as at Cheriton Parc represent important development opportunities if the town is to meet its forecast requirements during the Core Strategy Local Plan period but recognises that there is the possibility that office space at Cheriton Parc is delivered beyond the Core Strategy Local Plan period.
- 7.14 As stated previously, the undeveloped allocation represents about 65% of the total office supply in Folkestone and about 30% of the total office supply in the district as a whole. The site is considered strategically important and one of the last opportunities to provide larger footprint, modern office space in the town that is well-located within the transport network.
- 7.15 It is also noted that the accompanying design and access statement asserts that the existing office space is fully let. The proposal to expand the commercial space offering would suggest that current demand is outstripping supply. It is also considered that the provision of additional facilities such as a gym and crèche could only serve to make Cheriton Parc a more attractive business location.
- 7.16 The Shepway Economic Strategy (2015-2020) sets out the council's ambitions for economic growth in Shepway. The Economic Strategy recognises that the District has many assets upon which to build and to attract further investment; and that there is a need to capitalise on these to attract new businesses that will bring job opportunities to the district and create confidence so that the private sector continues to invest in Folkestone and Hythe District in the future.
- 7.17 One of the priorities of the Economic Strategy is to identify and bring forward appropriate sites for commercial development. It realises that Folkestone Town Centre has no sites available to meet the current demand from larger floorspace users and no suitable existing buildings for conversion. It does highlight that well-located sites are identified as being in and around the districts three M20 junctions, as the application site is.
- 7.18 The ELR 2017 and the Economic Development Strategy (2015 – 2020) formed a key part of the evidence base for the Places and Policies Local Plan to support the Council's strategy to boost the local economy and to increase job opportunities. No objections were raised to the continued allocation of Cheriton Parc throughout the preparation of the Places and Policies Local Plan, which was examined between 2019 and 2020 and subsequently found to be 'sound'.
- 7.19 Consequently, it is clear that this site is a key site for the delivery of office space in the Folkestone and Hythe District area and is specifically identified within Places and Policies Local Plan policy E1 as a site required to support the requirements of local businesses as a key part of a range of industrial sites and premises across the district. This policy protects the identified sites for business uses and the loss of the application site for non-office purposes would be directly contrary to the aims of this policy.

## *Otterpool Park*

- 7.20 The Supplementary Planning Statement makes reference to the outline planning application for Otterpool Park (ref Y19/0257/FH); and a Joint Delivery Statement between FHDC and Otterpool Park LLP published June 2020. It draws attention to the fact that the JDS confirms that as part of the outline planning application, Otterpool Park is proposed to have up to 77,500 sqm (GIA) of B1, B2 and B8 commercial floorspace, 21,000 sqm (NIA) of retail and leisure floorspace in addition to community uses. The applicant has incorrectly concluded that this supply is in addition to the sites allocated under policy E1 of the Places and Policies Local Plan (2020). On the contrary, the allocation at Otterpool Park was meant to compliment and add to the existing employment allocations in the development plan.
- 7.21 Policies SS6 – SS9 of the emerging Core Strategy Review, which seek to allocate the new Garden Settlement, set a requirement for 36,760 sqm net of employment floorspace which may include office, research and development and light industrial uses within Class E, and uses falling within Class B2 and B8, with development beyond the plan period having the potential to provide for approximately 57,600 sqm of employment floorspace in total. This quantum of employment floorspace has been calculated to meet the needs of the garden settlement but also to support a step change in the District economy, with the Otterpool Employment Opportunities Study stating that *“Otterpool Park provides an opportunity to deliver a step-change within the economic growth trajectory of Shepway District. To maximise the opportunities, its economic role must combine both local functions that support the garden town itself but also delivery of a more strategic employment function which the District currently lacks.”*
- 7.22 Consequently, Cheriton Parc offers one of the few opportunities to take advantage of potential future investment as a result the economic benefits that could flow from Otterpool Park, as well as the opportunity to respond to the potential changing employment / office trends post Covid-19 in the Folkestone area given the lack of town centre opportunities.
- 7.23 Policies SS6 to SS9 will supersede the existing allocation in Policy E1 at Link Park for 73,175 sqm of B-class uses. Therefore, this represents a net reduction in the employment land supply by 36,415 sqm from the current adopted plan position; and should also be viewed in the context of an extended plan period from 2030/31 to 2036/37; and rapidly increasing housing targets.
- 7.24 The Otterpool Park Allocation is still to be determined against the emerging policies of the Core Strategy Review. The proposed employment floorspace quoted from the Joint Delivery Statement represent a total figure should potential future growth of the garden settlement to provide 8,000 – 10,000 dwellings be realised. If the full employment floorspace figures mentioned in the Joint Delivery Statement come forward in excess of the policy requirements, then this would still balance against the loss of Link Park allocation and be phased gradually over time with a proportion of this figure delivered beyond the plan period. As such, the position at Otterpool Park is not considered to provide justification for the loss of the current site for office development.

## *Need for HGV Parking*

- 7.25 The NPPF (para 109) highlights that planning policies and decisions should recognise the importance of providing adequate overnight lorry parking facilities, taking into

account local shortages, to help reduce the risk of parking in locations that lack proper facilities or could cause a nuisance. Policy T4 of the Places and Policies Local Plan (2020) seeks to plan positively for HGV parking in the District, where the relevant policy requirements are met.

- 7.26 The applicant has provided correspondence with KCC Highways & Transportation but it is noted that where they acknowledge that overnight HGV parking is an issue in Kent and that provision of lorry parking remains a local and national priority, they do not comment on Folkestone & Hythe District specifically.
- 7.27 The Supplementary Planning Statement suggests that there is a current shortage of between 1000 and 1,200 HGV parking spaces in Kent. It is not understood when and how this figure was calculated and/or whether this figure takes in to account recent added capacity at Ashford, Dover or elsewhere in the County.
- 7.28 The applicant has also referred to the Freight Action Plan for Kent which states that KCC were developing a strategy for a network of small lorry parks at locations across Kent. It presents the results of an overnight parking survey for HGV's in 2016. The average for Folkestone & Hythe District (formally Shepway) was 10 and 12 for each of the surveys undertaken, placing Folkestone and Hythe second to bottom in the table behind Thanet, which had the lowest number recorded. It is understood that further annual surveys were undertaken; however results do not appear to have been published or provided as evidence in support of the application. As such limited weight can be attributed to this.
- 7.29 Overall, although the proposal would supply some additional office and storage / distribution floor space, alongside the employment associated with the lorry park, this would be at a significantly lower density than that which would be possible if the whole allocation was utilised for office-based employment and it is the view of Officers that there is insufficient evidence to adequately establish that there is an overwhelming need for additional HGV parking within the Folkestone & Hythe District on the scale put forward by the proposals that overrides the loss of a significant employment allocation. As such, it is not considered that the adopted policy criteria, which is considered to be up-to-date, should be overridden in favour of the proposed development and that insufficient justification has been provided on these grounds.

## **b) Visual Impact / Design**

### *Visual Impact*

- 7.30 The AONB boundary runs north-south through the centre of this site. The proposed new business units and extension of the existing Motis Centre would be located on the eastern part of the site outside of the AONB but within its setting. The majority of the proposed lorry park and its ancillary facilities would lie within the western part of the site and would be within the AONB.
- 7.31 The tree cover increases towards the western end of the site where it links into woodland running along the railway line and the M20 and larger woodland blocks around the public bridleway HE255 and to the south of the railway. The latter block is identified as Priority Habitat – described as broadleaved, mixed, and yew woodland. This woodland block then links into the Seabrook Stream SSSI. It is noted that the transport corridor to the north has compromised the visual continuity with the AONB and the site is considered to retain few of the visual characteristics of the AONB.

- 7.32 The proposal would be visible from a localised area immediately adjacent to the site where views into the site are currently considered to be of an urban nature and set in the context of the transport corridor and HS1 terminal in longer views. Two long-distance views are identified within the LVIA from the North Downs Way / Saxon Shore Way, as well as a viewpoint from the Folkestone White Horse to the north of the site. The visible elements of the new development would form a portion of the view, viewed behind the mature tree cover along the embankment of the M20 corridor, with the proposed development of the transshipment facility, truckstop, extended lorry park area and light industrial units considered unlikely to significantly alter the composition or amenity value of the view that is currently possible.
- 7.33 Close-range views from Cheriton High Steet would be of the new industrial units and extended part of the existing business centre and would not, given the existing views of the Motis Business Centre, car park, electricity pylons and vegetation running along the railway line, significantly alter the amenity value of the existing views. From footpath HE255, close range views would be of the extended truckstop and transshipment facility which are considered unlikely to significantly or detrimentally alter the amenity value of the views across what is termed a 'degraded' site in the submitted LVIA. The proposed development is considered to have a visual character consistent with the existing nearby uses, and the proposed structures would not be unexpected. The adjacent Premier Inn Hotel already overlooks the existing Motis Business Centre and car park and it is considered that the proposed development would not significantly or detrimentally alter the amenity value of these views, given the context in which it would be sited.
- 7.34 In terms of land use the site is surrounded by transportation infrastructure, with the railway line to the south, the M20 and A20 to the north and the Channel Tunnel Terminal further to the north also. It also supports substantial buildings and hardstanding over much of its surface, and is adjacent to existing B1 - B8 development, with electricity pylons also running across the site. The site does not contribute to the key characteristics of the Kent Downs AONB and it is considered that the likely visual impact arising from the proposed development are relatively limited and relate almost predominantly to the resulting change in land use and cover in the western end of the site. The site is generally visually contained in long distance views by the existing topography of the and by intervening vegetative cover along the transport corridor, with the structures and development as a whole of a scale that would not cause a detrimental change in the wider landscape character, including that of the designated AONB and SLA.
- 7.35 It should also be noted that the site, as a whole, has been allocated for within the Local Plan, so the principle of built development across the site has already been accepted, although it is acknowledged that the final form of this would, of course, be subject to the submission of a planning application.

## *Design*

- 7.36 The transshipment unit, drivers lounge and business units are all individually designed units, whilst the extension to the business centre has been designed to follow the design of the existing. All have a strong utilitarian appearance, with all proposed to be finished with composite panels to match the existing business centre.

- 7.37 The transhipment building would sit behind the Motis Business Centre to the west and would not be readily visible in views from the street. It would have plain, unrelieved elevations. The drivers lounge would be toward the western end of the site and would not be readily visible. It is a two-storey building but with a shallow, pitched roof. The business units toward the eastern end of the site are two storey also, with a gently-sloping mono pitch and roller shutter doors. The extension to the Business Centre would be flat-roofed to match the existing structure.
- 7.38 The existing character of this part of the site is noted, with the Premier Inn building utilising composite cladding alongside the Motis Business Centre and it is not considered unreasonable for the development to follow this architectural lead, with the variation in the building styles not considered likely to result in any detrimental impact upon the character of the area. The comments of the Kent Downs AONB Unit are noted and in this respect, if permission were granted, it would be considered reasonable to secure details of final materials and colouration via condition.
- 7.39 Overall, it is considered that the proposed development would not be detrimental to the visual character of the immediate or wider area, inclusive of the designated landscapes and their settings, with the design of the proposed buildings also considered acceptable within the context of the site and surrounding development.

## **c) Residential Amenity**

- 7.40 The nearest residential dwellings are to the west in Canada Close, although it is noted that 27 units are currently being constructed at the site of the former Brockman Family Centre (planning reference Y19/1164/FH) which is immediately to the west of the former Saga building, known as Cheriton Parc House.
- 7.41 A Noise Impact Assessment has been submitted with the proposal and showed that the scheme would meet the set noise limits at the noise-sensitive receivers and demonstrating that operational noise from the scheme would be considered to be below the Lowest Observable Adverse Effect Level (LOAEL). The findings of this report have been accepted by the Council's Environmental Health Officer.
- 7.42 Whilst there would be an increased number of vehicle movements along the section of Cheriton High Street leading to the application site that would be associated with the proposed change of use and expansion of the site, these are considered unlikely to result in a significant detrimental impact to residential amenity from noise and disturbance. Further, it is considered that as the site has already been allocated for commercial development, additional vehicle movements have already been accepted in principle for this site. However, the allocation is in respect of office use with the proposed use focused primarily on HGV movements.
- 7.43 In relation to air quality, the proposals have the potential to cause air quality impacts as a result of dust emissions during construction together with road traffic exhaust emissions associated with vehicles travelling to and from the site during operation. The submitted air quality assessment concludes that the use of good practice control measures would provide suitable mitigation and reduce potential impacts to an acceptable level in respect of dust, the details of which could be secured via suitably worded condition, should permission be granted.

7.44 In respect of exhaust emissions, modelling results indicated that predicted air quality impacts as a result of traffic generated by the development were not significant at any sensitive location in the vicinity of the site.

## **d) Ecology and Biodiversity**

7.45 The submitted Preliminary Ecological Appraisal (PEA) identified that the east of the site supports a small semi-improved grassland paddock with species-poor hedgerow, whilst the rest of the site supports disturbed ground, grassland, hedgerow, and young deciduous woodland and scrub habitat.

7.46 The main findings of the report were that:

- Potential for reptiles to be present
- Potential for dormouse to be present
- The site supports open mosaic habitat (OMH)
- The OMH provides suitable habitat for rare or scarce invertebrate
- Suitable habitat for breeding birds
- Badger scull recorded – but in the areas surveyed no signs of badgers present
- Suitable habitat for hedgehogs
- At least 2 species of foraging bats recorded within the site

7.47 The report recommends a largely precautionary mitigation or avoidance to demonstrate that impacts on protected species (through the direct loss of habitat) can be avoided and KCC Ecological Advice Service have reviewed the documents and accept that conclusion, although they highlighted that no information had been submitted demonstrating that appropriate mitigation for the open mosaic habitat (and associated invertebrate population) could be achieved.

7.48 Supplementary work, also subsequently reviewed by KCC Ecological Advice Service, confirmed an updated site assessment was carried out and mitigation proposed in the form of creating a new area of OMH along the northern boundary of the site where there is currently an area of amenity grassland present, with existing habitat translocated and the overall quality increased. A method statement would be employed to ensure that no harm would come to any potential reptiles present on site.

7.49 In relation to badgers, no further evidence of badgers was found on site and they are not considered to be present on site or within a 30m buffer of the site, with no further mitigation required. Additionally, for bats, following the initial surveys, further surveys were carried out, with very low levels of bat activity recorded across the site.

7.50 In respect of lighting, as the proposed development would result in a significant increase in artificial lighting across the site, a bat sensitive lighting scheme would need to be implemented, especially adjacent to site boundary habitats. A dark corridor plan was provided and the supplementary statement confirmed that the strategy would implement a dark corridor, with illuminations contained within the centre of the sites core development zone, which gradually reduces through a transition zone towards the north, south and west boundary of the site until reaching the dark corridor where a maximum luminance level of 1 lux and less would be achieved, satisfying the requirement to maintain the boundaries of the site as a wildlife corridor.

7.51 In relation to the Seabrook Stream SSSI, which is not within the application site, the Traffic and air quality modelling work undertaken indicated that the proposed



development would be unlikely to result in significant adverse effects upon nitrogen-sensitive habitats, as although the Seabrook Valley SSSI designation is situated within 200m of an affected road link (the westbound sliproad of the M20) sensitive site features are unlikely to be present within the relevant distance criteria and concluded that in accordance with Natural England guidance, the proposed development is unlikely to have a significant air quality impact on the designation and further assessment is therefore not considered to be necessary.

- 7.52 However, the submitted PEA suggests a precautionary approach is taken and recommends that a botanical walkover survey of the 15m wide band of the SSSI that falls within the 200m radius from the road will need to be undertaken to confirm whether or not it supports lowland acid grassland, which is a nitrogen sensitive habitat and a Natural England monitoring feature for the SSSI. As highlighted by KCC Ecological Advice Service, this has not been undertaken.
- 7.53 Consequently, the presence of lowland dry acid grassland within the 15m-wide section of the SSSI that falls within the very outer extents of the 200m radius of the link road cannot be completely ruled out and further air quality assessment work may be required to determine whether the 11 development-specific lorry trips will result in any ecologically significant nitrogen deposition within this area of the SSSI.
- 7.54 Consequently, it is considered that there is potential for harm to a nationally important site, with nothing to outweigh the likely impact on the lowland dry acid grassland within the site that make up the special scientific interest. It is considered that in the absence of this information, the Local planning Authority is unable to confirm that the proposed development is acceptable on these grounds contrary to Places and Policies Local Plan NE3, Core Strategy policy CSD4 and NPPF paragraph 180 and as such it is considered that it should be refused on these grounds.

## **e) Contamination**

- 7.55 The application has been accompanied by a Phase 1 desk top study which has found that no significant historical land uses have been identified on site which could have caused contamination of the shallow soils, whilst the proposed commercial development with a lorry park is considered to have low sensitivity from a human health perspective. No further formal intrusive land contamination assessment is required, although a watching brief for any unexpected contamination should be maintained throughout the works, as secured by suitably-worded condition, if permission were to be granted.

## **f) Drainage**

- 7.56 The site is in flood zone one according to the Environment Agency flood risk mapping and the proposal has been accompanied by a Flood Risk and Drainage Statement which identifies that the risk to the proposed development is low, concluding that infiltrating runoff into the ground will present the most viable solution for managing runoff, with a combination of permeable surfacing and soakaways proposed to be incorporated into the proposed development.
- 7.57 This strategy has been accepted by the relevant consultees, subject to the submission of details of the sustainable surface water drainage scheme as part of a suitably-worded condition, should permission be granted.

## **g) Archaeology**

7.58 The site is in an area of archaeological potential for major planning applications only, but it has been noted by KCC Archaeology that the site was subject to archaeological evaluation and monitoring in 1988 and 1992 by Canterbury Archaeological Trust with negative results despite prehistoric and Romano-British archaeological remains having been discovered in the surrounding area. Taking account of the results of past archaeological work at the site it is considered unlikely that the proposed works will have any significant archaeological impact.

## **h) Highway Safety**

7.59 The submitted information within the Transport Statement shows that:

- Trip generation: a proposed overall total of 34 AM (two-way) and 35 PM (two-way) trips during the peak hours;
- Lorry Parking Trip Generation: the Lorry Park is proposed to increase the number of parking spaces to 115 in total, but these movements are tidal and generally occur outside the highway peak hours, at approximately 05:00-06:00 and 19:00 – 20:00 hours;
- Controlled Parking: The Lorry Park operates in a controlled manner via a booking system, which would prevent any HGVs from turning up on an ad-hoc basis.

7.60 The Highways Agency have reviewed this information and are content that the volume of traffic associated directly with the proposed lorry park will be effectively managed and that the quantum of traffic proposed within the highway network peak hours would not create an unacceptable impact on the safety, reliability and/or operation of the strategic road network, with particular reference to M20 junction 12.

7.61 With regard to access and layout, the proposal has been reviewed by KCC Highways and Transportation who have advised that the existing access junction onto Cheriton Road is considered adequate and has safe visibility, with the proposed layout also allowing for safe access to the proposed commercial units. Taking account of the existing on site layout with the spare capacity available for the current operation, there is adequate parking to cater for the additional proposed uses.

7.62 Turning to the lorry park, the proposed looped access road allows flexibility of access and the current access road enables queuing away from the highway in the event of several vehicles arrive at once. The access junction to this section of site from Cheriton High Street is existing, of suitable size for the large vehicles and has adequate visibility. Localised road widening has been proposed on Cheriton High Street to allow for a six-metre carriageway, with the exception of a short section where this is not possible, although this section has ample forward visibility. The 'pre-booking only' format for lorry park users would prevent abortive trips for large vehicles on the surrounding highway network. Vehicle tracking drawings have been provided for both the site and the highway approach and junctions, these are acceptable and demonstrate safe access for HGV's.

7.63 The primary concern when assessing traffic impact is the additional vehicles added to the surrounding highway network in the AM and PM traffic peak hours. For this application, all of the proposed uses listed above combined result in an additional 34 two way trips in the AM 0800-0900 traffic peak hour (22 arrivals and 12 departures)

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and 35 two way trips in the PM 1700-1800 peak hour (15 arrivals and 20 departures). This volume of traffic cannot be considered severe in nature and as such traffic impact of the proposal does not warrant objection from the local highway authority. As such, Officers also considered that the application would be acceptable on highway grounds.

## **Environmental Impact Assessment**

7.64 In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1 & 2 of the Regulations and the threshold is not relevant as the application site is within a sensitive area of the Kent Downs AONB. A screening opinion will be carried out by the Council prior to determination.

## **Local Finance Considerations**

7.65 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.

7.66 In accordance with policy SS5 of the Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area. This application is not liable for the CIL charge as it is development that does not fall within the charging schedule.

## **Human Rights**

7.67 In reaching a decision on a planning application the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.

## **Public Sector Equality Duty**

7.68 In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

It is considered that the application proposals would not conflict with objectives of the Duty.

## **Working with the applicant**

- 7.69 In accordance with paragraphs 38 of the NPPF, Folkestone and Hythe District Council (F&HDC) takes a positive and creative approach to development proposals focused on solutions. F&HDC works with applicants/agents in a positive and creative manner.

## **8. CONCLUSION**

- 8.1 The proposed use of the majority of the application site as a lorry park, despite the increase in commercial floor space from the proposed extension and new commercial units, is not supported by evidence to establish a need for additional HGV parking within the Folkestone & Hythe District on the scale put forward by the proposals that overrides the loss of a significant employment allocation within the very recently adopted local plan. Further, there is insufficient evidence to demonstrate that a detrimental impact upon the adjacent Seabrook Stream SSSI from the proposed development. For these reasons, it is considered that the proposed development would give rise to significant material planning harm and the application is therefore recommended for refusal.

## **9. BACKGROUND DOCUMENTS**

- 9.1 The consultation responses set out at Section 5.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

## **1. RECOMMENDATIONS**

### **That planning permission be refused for the following reasons:**

1. The proposed lorry park would utilise land allocated for office purposes in the adopted Local Plan, and would significantly compromise the supply of future employment land required to meet the forecasted office space requirements for both Folkestone and the District as a whole over the Local Plan period. The loss of this site from the adopted policy position would result in the district being unable to meet this requirement and therefore would harm its ability to provide suitable office accommodation in the future. The proposed development is therefore contrary to Places and Policies Local Plan policy E1, Core Strategy policy SS4 and emerging Core Strategy Review policy SS4.
2. Insufficient evidence has been provided to demonstrate that the proposed development would not give rise to a detrimental impact on the adjacent Seabrook Stream Site of Special Scientific Interest. In the absence of this information, the Local Planning Authority is not satisfied that lowland dry acid grassland is not present within adjacent section of the SSSI, nor that the proposed development would not cause harm to a location of national importance. The application is therefore contrary to Places and Policies Local Plan policy NE2, Core Strategy policy CSD4, Core Strategy Review policy CSD4 and National Planning Policy Framework paragraphs 174 and 180.

Informative:

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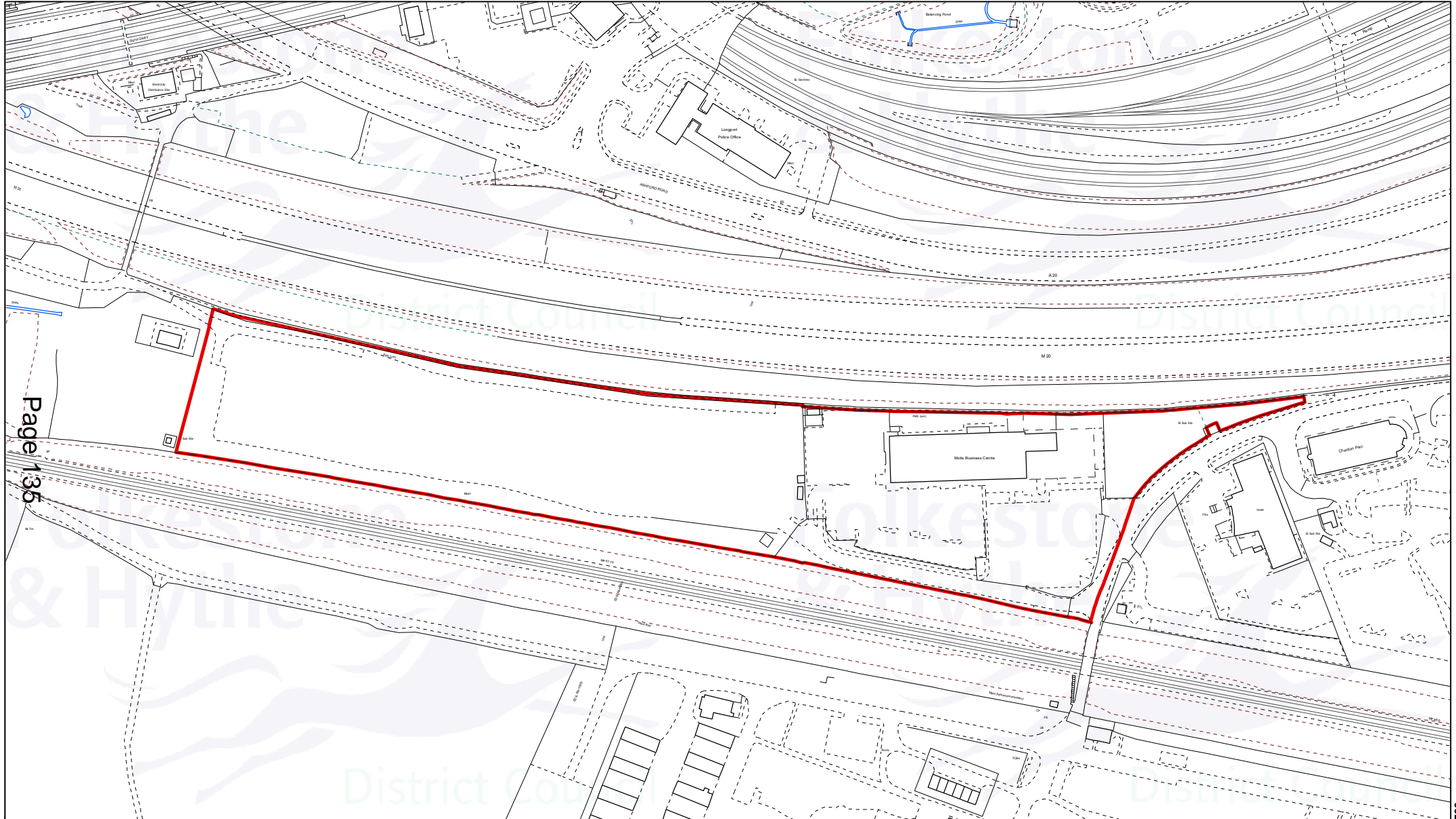
1. Your attention is drawn to the fact that this refusal of planning permission is on the basis of submitted drawings:

2597 - 110 A Proposed Drivers Lounge floor plans; 2597 - 104 Proposed Business Centre Floor Plans; 2597 - 105 Proposed Business Centre Elevations; 2597 - 112 Proposed floor plan; 2597 - 103 A Proposed Lorry Park Zone Layout Plan; 2597 - 109 A Proposed Floor Plans and elevations Units 1-6; 2597 - 102 B Proposed Site Layout Plan; 4982-LLB-XX-XX-DR-L-0001-S4-P03 Landscape Masterplan; 44606\_5501\_009A - HGV tracking in site layout; 2597 - 113 Proposed floor plans and elevations of Transhipment building; 2597 - 111 Proposed front, rear and side Elevations.

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# Motis Business Centre, Cheriton High Street, Folkestone, CT19 4QJ

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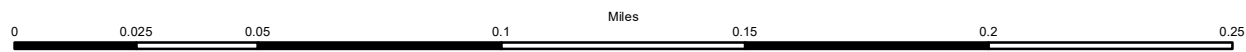
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# Agenda Item 9

## DCL/21/46

**Application No:** 20/0747/FH & 20/0752FH

**Location of Site:** Kings Arms, The Square, Elham, Canterbury CT4 6TJ

**Development:** **20/0747/FH** - Erection of single storey rear extensions, refurbishment of existing outbuilding to provide dining area and all associated landscaping works

**20/0752/FH** - Listed building consent for the erection of single storey rear extensions, refurbishment of existing outbuilding to provide dining area and associated internal and external works

**Applicant:** Mr. Darrell Healey

**Agent:** John Rogers Designs

**Officer Contact:** Robert Allan

### SUMMARY

This report considers whether planning permission and listed building consent should be granted for the erection of single storey rear extensions and the refurbishment of the existing outbuilding to provide a dining area, together with the associated landscaping and internal and external works. The report assesses the impact upon the significance of the heritage assets and finds that although harm is caused, it is less than substantial and considered to be outweighed by the public benefits of the proposal. The impacts upon the designated landscape of the Kent Downs AONB are also considered to be negligible, as well as the visual impact upon the conservation area. All remaining issues pertaining to residential amenity and highway safety are considered acceptable also.

### RECOMMENDATION:

**That planning permission and listed building consent be granted subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.**

### 1. INTRODUCTION

1.1. The application is reported to Committee due to the views of Elham Parish Council.

### 2. SITE AND SURROUNDINGS

2.1. The application site is within the defined settlement boundary of Elham, a Rural Centre in the North Downs Area that has been identified as having a role to develop in a manner that supports their role as integrated tourist and local centres providing shops and services for a significant number of residents, visitors, and also for other villages

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in the North Downs. The wider area is designated Kent Downs Area of Outstanding Natural Beauty (AONB), North Downs Special Landscape Area (SLA), with the application site also part of the Elham Conservation Area. The existing site layout is shown below, in Figure 1:



Figure 1

2.2. The application site comprises the Kings Arms public house and associated garden and outbuildings. The main property is a Grade II listed c16th two-storey timber building fronting on to The Square in Elham with a carriage entry passing under the building at its eastern side, leading through to a rear courtyard. A two-storey rear range extends out northwards containing the rear courtyard on its east side. The courtyard wraps around the side and rear of Corner Cottage, a diminutive Grade II listed cottage attached to the eastern end of the Kings Arms. At the rear of the courtyard is a single storey detached outbuilding, behind which is a large garden plot – currently used as the pub garden – which wraps around the western and northern boundaries of Cockpit Cottage. To the northern boundary of the site is the garden area of The Cottage, a Grade II listed dwelling. The public house fronts onto The Square, an area marked out for vehicular parking and connecting to the surrounding road network, with residential properties on three sides and St Marys Church to the southern side, a Grade I listed ecclesiastical building.

2.3. A site location plan is attached to this report as **Appendix 1**.

## 3. PROPOSAL

*Planning application 20/0747/FH*

- 3.1 Full planning permission is sought for the erection of single storey rear extensions, refurbishment and alteration of the existing outbuilding to provide a dining area and associated landscaping works. The single storey extension is proposed to run from the rear of the existing rear range and would provide toilet facilities and a new kitchen area, with storage areas, staff facilities and ancillary offices. The block plan can be seen in figure 2 below and the proposed ground floor layout can be seen in figure 3.
- 3.3 The extensions would step down following the topography of the site (see figure 4) and are shown to be finished with a red brick plinth, timber featheredge boarding stained black, Kent peg tiles for the pitched roofs and zinc for the flat roof. A glazed link would be formed to the single storey outbuilding, which would be refurbished internally and externally to provide a dining area, with a lean-to addition removed, whilst the existing courtyard area would be repaved in York stone. Landscaping works across the rear garden area would provide level access for customers and staff and allow the existing area to be utilised by a broader range of clientele. A service lift is proposed between the eastern end of the outbuilding and Cockpit Cottage.

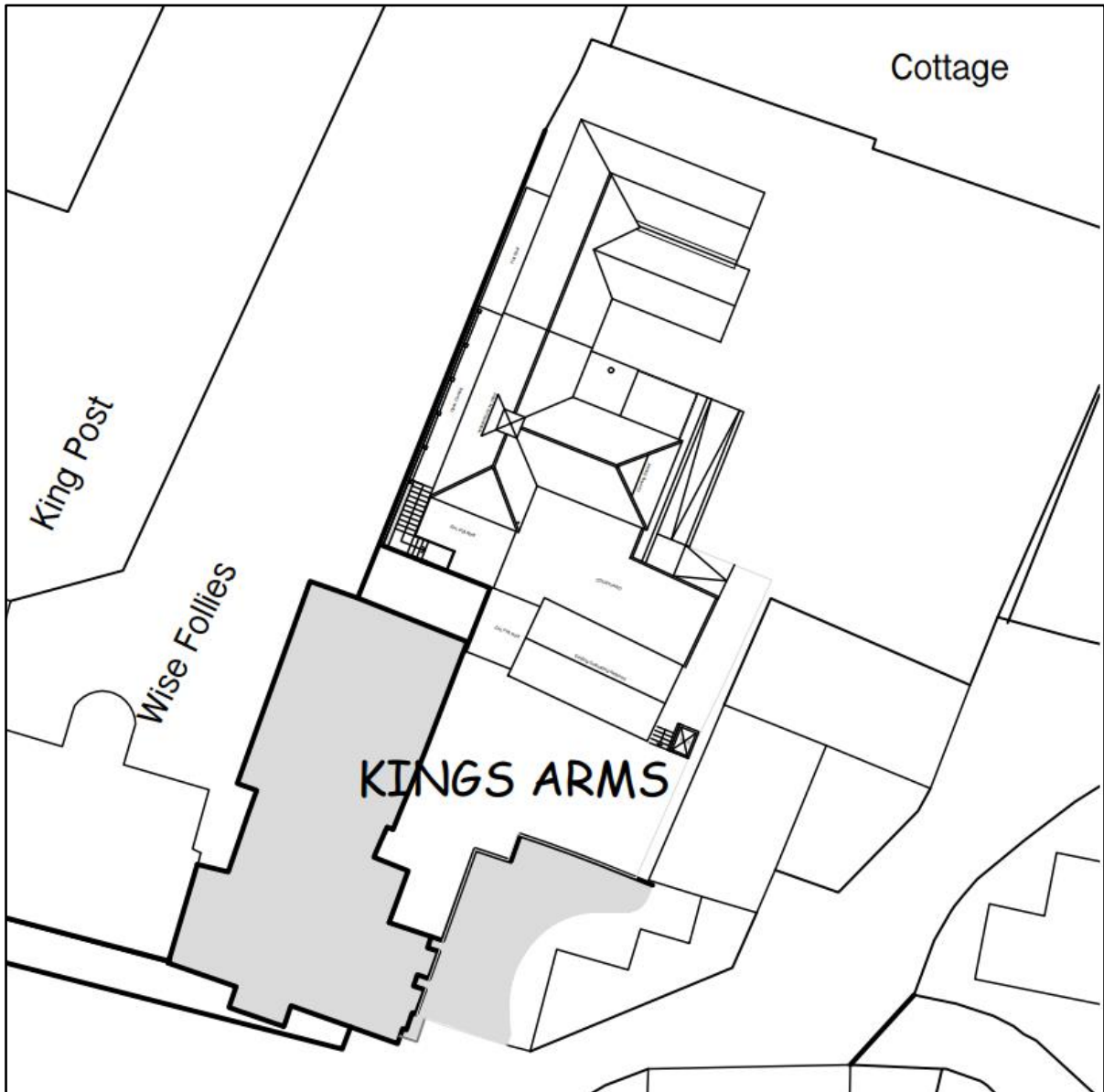


Figure 2



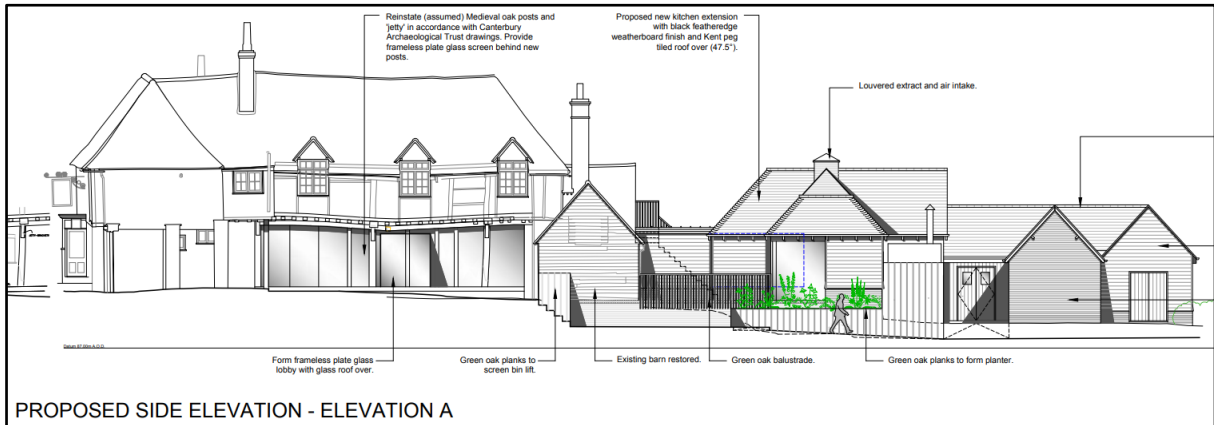


Figure 4

- 3.2 In addition to relevant plans and drawings, the applicant has submitted the following documents in support of the application.

### Design and Access Statement

This document summarises the proposals and objectives for the application, provides the listing details of the building and provides brief, positive statements regarding the proposed use, layout, scale, appearance, context and access.

### Heritage Statement

This document provides information upon the significance and character of the heritage asset and assesses whether the works proposed would affect the significance, character, or setting of the heritage assets. It sets out the proposed works and assesses their impact, concluding that they will result in much of the modern fabric being removed, with historic and significant fabric remaining. It also acknowledges that the works are considered extensive but are balanced by a need to retain the original function of the building for the future.

### Noise Assessment & Technical Specification

These documents relate to the proposal to install a replacement kitchen extraction system as part of the proposed development and provide a specification for the proposed plant and provide details of a noise survey carried out at the site to determine prevailing background noise levels that are representative of the nearest noise sensitive properties, carry out a worst-case noise assessment of the noise levels associated with the proposed plant and conclude that the predicted noise impact would be low.

*Listed Building Consent 20/0752/FH*

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- 3.3 Listed building consent is sought for the erection of single storey rear extensions, refurbishment of an existing outbuilding to provide an additional dining area and associated internal and external works for the refurbishment of the public house.
- 3.4 As well as the proposed extensions to the rear of the property set out for the planning application, at ground floor level the existing entrance door from The Square is to be closed, with the Victorian porch converted into a snug area. The existing bar counters, front and rear of the main stack are to be removed, with the connection between the two bar areas formed using the servery connection. The existing link between the two bars is to be closed off to form a lobby to separate the staircase from the trading areas. The bar servery is to be shifted to a new bar counter within the enlarged rear bar area within the rear range which extends through to incorporate the former catering kitchen. At first floor level, the existing managers' accommodation would be re-ordered to form a kitchen, dining room and lounge in the range, with the central of the three bedrooms in the main building converted to form a bathroom.
- 3.5 The possibly early c17th rear range is timber framed, once jettied and subsequently underbuilt in brick in the early c20th, with the upper framing infilled with brick nogging, also Victorian and the roof a later early c20th replacement. The ground floor infill brick on the western side is to be removed, with missing frame elements re-installed and glazing installed to allow the trade area to face into the courtyard, with a glazed lobby area also constructed. A connecting link in glass would be constructed to the detached single storey outbuilding, which is also timber framed but considered likely to be late c18th, and clad in black boarding with a steep gabled Kent peg tile roof. The existing entrance of this on the southern side is to be retained and following removal of lean-to elements, a second opening on the north side created, with the interior refurbished.
- 3.5 In addition to relevant plans and drawings, the applicant has submitted the following documents in support of the application.

Design and Access Statement and Heritage Statement – please see section 3.2

## 4. RELEVANT PLANNING HISTORY

- 4.1 The relevant planning history for the site is as follows:

CH/8/71/176	Provision of fire escape at side of premises	Approved
92/0654/SH	Listed building consent for external alterations to front elevation	Approved with conditions
92/0655/SH	External alterations to front elevation	Approved with conditions

## 5. CONSULTATION RESPONSES

- 5.1 The consultation responses are summarised below.

## Consultees

*Planning application 20/0747/FH*

**Elham Parish Council:** Object for the following reason;

- Detrimental impact upon surrounding properties due to sheer scale / height of the proposed extension

**KCC Highways and Transportation:** No comment made – proposal falls outside of current consultation protocol arrangements.

**Natural England:** Objection regarding potential significant effects on Stodmarsh Special Area of Conservation (SAC), Special Protection Area (SPA), Ramsar site, Site of Special Scientific Interest (SSSI) and National Nature Reserve (NNR).

**[CPO comment: In respect of the comments made, Members should note that the application has undergone significant change to remove the request for additional hotel rooms at first floor level. Consequently, there is no additional overnight accommodation and there would be no impact upon the designated sites.]**

**Southern Water:** Comments received concerning Building Regulations 2010

**KCC Archaeology:** No objection subject to conditions

**Environmental Health:** No objection subject to conditions

**Arboriculture Manager:** No objection

## Local Residents Comments

5.2 Thirty one representations received, with twenty-five objecting and six supporting.

5.3 I have read all of the representations received. The key issues are summarised below:

### Objection

- Increased traffic and impact upon residents in Cock Lane
- Insufficient parking
- Increased delivery traffic
- Increase in light pollution and noise impact
- Noise and disturbance from increased use of the rear garden
- Concern regarding licensing hours
- Will Corner Cottage be used as part of the proposal?



- Design not in keeping with or sympathetic to listed building
- Loss of front porch entrance
- Size and scale disproportionate to residential and historic setting
- Overshadowing and dominating of garden
- Tranquil nature of conservation area adversely affected
- Increased late night and drunk driving
- Village infrastructure is not sufficient
- Impact on security for neighbours
- Impact on views over the garden
- Loss of privacy
- Kitchen fumes
- Impact upon existing businesses
- Loss of tree
- Application should be called to committee

## Support

- Refurbishment of pub is required
- Additional employment in the village
- Parking is already a problem in the village
- Pub is likely to turn to residential without investment
- Positive for local businesses
- Investment will allow pub to remain at heart of village

*Y19/1142/FH (Listed Building Consent)*

## Consultees

**Elham Parish Council:** Object for the following reason;

- Detrimental impact upon surrounding properties due to sheer scale / height of the proposed extension

## Local Residents Comments

5.4 Two representations received, one supporting and one objecting.

5.5 I have read all of the representations received. The key issues are summarised below:

## Objection

- Disproportionate proposals that are over development
- Impact upon neighbouring properties
- Loss of green space and amenity
- Visual impact of flues

- Increased emissions and nuisance
- Closing off porch interferes with listed status of building

## Support

- Transformation of pub
- Employment in village

5.6 Responses are available in full on the planning file on the Council's website:

<https://searchplanapps.folkestone-hythe.gov.uk/online-applications/>

## **6. RELEVANT PLANNING POLICY**

6.1 The Development Plan comprises the Places and Policies Local Plan 2020 and the Core Strategy Local Plan 2013.

6.2 The Folkestone & Hythe District Council Core Strategy Review Submission Draft (2019) was submitted to the Secretary of State on 10 March 2020. Inspectors were appointed to examine the plan on 19th March 2020 and public hearings were held from 15th to 18th December 2020, from 5th to 12th January 2021 and from 29th June to 1st July 2021. The Inspectors wrote to the council on 1st July 2021 to state that the Core Strategy Review complies with the duty to cooperate and can be made 'sound' by amendment through main modifications. The Inspectors followed up their initial assessment by letter on 16th July 2021, stating that, subject to main modifications concerning detailed policy wording, they consider that the plan's spatial strategy and overall approach to the district's character areas and settlements is sound. The Inspectors find that the housing requirement is justified and that the Core Strategy Review will provide an adequate supply of housing over the plan period and at least a five year supply of housing land at the point of adoption. In accordance with National Planning Policy Framework (2021) paragraph 48, the policies in the Core Strategy Review should therefore be afforded significant weight, having regard to the Inspectors' outline of main modifications required.

6.3 The relevant development plan policies are as follows:-

### Places and Policies Local Plan 2020

Policy HB1 - Quality Places Through Design  
Policy CC2 - Sustainable Design and Construction  
Policy T2 - Parking Standards  
Policy T5 - Cycle Parking  
Policy HE1 - Heritage Assets  
Policy HB8 – Alterations and Extensions to Buildings

### Core Strategy Local Plan (2013)

Policy DSD - Delivering Sustainable Development  
Policy SS1 - District Spatial Strategy  
Policy SS3 - Place-Shaping and Sustainable Settlements Strategy  
Policy CSD4 – Green Infrastructure of Natural Networks, Open Spaces and Recreation

## Core Strategy Review Submission draft (2019)

Policy SS1 - District Spatial Strategy

Policy SS3 - Place-Shaping and Sustainable Settlements Strategy

Policy CSD5 - Water and Coastal Environmental Management in Shepway

6.4 The following are also material considerations to the determination of this application.

### **Supplementary Planning Guidance/Documents**

#### Kent Downs AONB Management Plan

SD1 – Conserve and enhance the natural beauty of the Kent Downs AONB

SD2 – Design, scale, setting and materials will preserve local character, qualities and distinctiveness of the Kent Downs AONB

SD3 – New development or changes to land use will be opposed when contrary to need to conserve and enhance the natural beauty of the Kent Downs AONB

SD7 – Retain and improve tranquillity, including dark skies at night

### **Government Advice**

#### National Planning Policy Framework (NPPF) 2021

6.5 Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF.

Paragraph 8 – three main strands of sustainable development: economic, social, and environmental

Paragraph 11 – development proposals that accord with an up-to-date development plan should be approved “without delay”

Paragraph 47 – applications for planning permission be determined in accordance with the development plan

Paragraph 48 – giving weight to emerging plans

Paragraphs 84 to 85 – Supporting a prosperous rural economy

Paragraphs 174 to 176 – conserving and enhancing the natural environment

Paragraphs 194 to 197 – proposals affecting heritage assets

#### National Planning Policy Guidance (NPPG)

#### National Design Guide October 2019

## **7. APPRAISAL**

7.1 In light of the above the main issues for consideration are:

- a) Principle of development

- b) Visual amenity
- c) Residential amenity
- d) Archaeology
- e) Heritage
- f) Highways

**a) Principle of development**

- 7.2 The application site is within of the defined settlement boundary of Elham, a Rural Centre in the North Downs Area that has been identified as having a role to develop in a manner that supports their role as integrated tourist and local centres providing shops and services for a significant number of residents, visitors, and also for other villages in the North Downs, in accordance with Core Strategy policy SS3.
- 7.3 NPPF Paragraph 84 considers rural economies and how policies and decisions should enable the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and provision of well-designed new buildings, through sustainable rural tourism, and through leisure developments which respect the character of the countryside.
- 7.4 In this respect, the Kings Arms public house site is an existing rural business and as such and in accordance with NPPF paragraph 84 and Core Strategy Policy SS3, it is considered that the broad principle of development at this established rural business is acceptable, subject to all other material planning considerations being considered acceptable also.

**b) Visual amenity**

- 7.5 This site is within the designated Kent Downs Area of Outstanding Natural Beauty (AONB) and North Downs Special Landscape Area (SLA), as protected by policy NE3, which seeks to ensure that the natural beauty and locally distinctive features of the AONB and SLA and its setting are conserved and enhanced. The Council's policies set out that development proposals that are inconsistent with this objective will not be permitted unless development is appropriate to the economic, social and environmental well-being of the area. The NPPF, at paragraph 176, sets out that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.
- 7.6 The site is within the settlement boundary amongst the existing built form of the Elham Rural Centre, with the majority of the proposed development within the rear garden area of the public house. This area is obscured from ready view by the surrounding development in views from the south, west and north, but could be seen in views looking west from Cock Lane. In these views, it is likely that the single storey development would sit below the roof line of the existing development that runs along the High Street to the west and the proposed materials, which would be locally

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distinctive in character (clay roof tiles, black-stained timber weather boarding and red brick plinth) would accord with the materials used in the surrounding development so as not to be visually obtrusive.

- 7.7 Further, the proposed structures are considered to accord with the character and appearance of the local area by virtue of their traditional vernacular form, redolent of the existing outbuildings and small structures that can be found in the surrounding area. Whilst the proposal would introduce new development into a part of the site that currently is not developed, it would have a negligible impact upon the visual character of this part of the AONB landscape and would sit comfortably within the existing built form, with negligible harm to the AONB and SLA designations.
- 7.8 Concerns have been expressed that the proposal would fail to retain and improve the tranquillity of the AONB, through eroding the experience of dark skies at night. The need to preserve the character of the AONB, an intrinsically dark area, is noted, but the development is within the village confines where there is already light spill. However, a lighting scheme and strategy could be secured via condition, in order to maintain control over the timings and levels of lighting that would be associated with the new development, in order to protect existing lighting levels, in accordance with policy NE5.
- 7.9 Overall, the visual impact of the scheme upon the designated landscapes is considered to be acceptable in accordance with policies NE3, NE5 and the National Planning Policy Framework.

## **c) Residential amenity**

- 7.10 Residential dwellings are located to all sides of the public house and its gardens with Corner Cottage and Cockpit Cottage having a very close relationship with the existing courtyard area and Cockpit Cottage, Wise Follies and The Cottage also abutting the garden area. The concerns of local residents have been noted in relation to noise and disturbance arising from the use of the public house and gardens at a greater intensity following the proposed investment, with particular reference to the refurbished courtyard area and the creation of a terrace to the north of the existing outbuilding.
- 7.11 Whilst these concerns are noted, the use is an existing one and the public house and its grounds can already be used in association with the business, with any refurbishment or change of ownership, whether or not planning permission or listed building consent is required, potentially giving rise to increased usage as the business rejuvenates.
- 7.12 In consideration of the proposed development, the proposed courtyard to the north of the refurbished outbuilding would allow use of an area of land that is currently unlikely to be used as a consequence of being overgrown and steeply sloping, even though it is within the existing pub garden area, which wraps around Cockpit Cottage. It is considered that submission of details of boundary treatment to this courtyard can be secured via condition in order to limit any possible views over the amenity areas of Cockpit Cottage. In addition, the proposed plans also show fruit trees to be planted to the northern boundary of this property, creating a barrier to the larger area of the public house garden and improving the situation over the current one, where clientele can sit or stand immediately adjacent to the boundary fence. The provision of this landscaping is capable of being secured via condition also. Also adjacent to Cockpit Cottage is the service lift, used to assist staff with moving bins across levels in the site. It is considered

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that the use of this should be controlled to within certain times and also be subject to a condition in respect of noise emission, as proposed by the Council's Environmental Health Officer. In addition, it is also considered reasonable to secure via condition that no amplified music is to be played to the courtyard areas.

- 7.13 The business also currently operates a restaurant with the extraction system venting out of the north-facing gable of the existing two-storey rear extension which runs along the western boundary. The proposal would install a new system within the roof of the proposed extension that would house the new kitchen area, with no net change in circumstance over the existing. Indeed, there may be an improvement in noise levels as the new system will be modern and full details can reasonably be secured via condition, with noise levels limited.
- 7.14 A fire escape is proposed to emerge from the area where the current extraction system expels air, with concerns associated with the views possible from this into the garden area of Wise Follies. However, as it has been confirmed to be an emergency escape only, with this reasonably secured by condition, there would be no day-to-day use and no detrimental impact upon privacy within normal parameters of use.
- 7.15 The proposed extensions would run adjacent to the common boundary with Wise Follies. The application site is set at a lower level and these extensions would be single storey, set away from the common boundary and with the roofs pitched away from the boundary also. Consequently, it is considered that there would be no detrimental impact from overshadowing or an overbearing presence.
- 7.16 Overall, it is considered that there would be no significant detrimental impact to residential amenity and the application is not considered to be in conflict with policies HB1 and HB8 of the Places and Policies Local Plan, which seek to ensure development does not have an adverse impact on the amenity of neighbours or the surrounding area.

## **d) Archaeology**

- 7.17 The application site lies in an area of archaeological potential associated with and Palaeolithic potential of the wider area and the location in the historic core of Elham.
- 7.18 KCC Archaeology have advised that a programme of archaeological work should followed, alongside a programme of building assessment and recording, both of which could be secured via condition. With these conditions in place, it is considered that there would be no detrimental impact upon historic building structural archaeology and below-ground archaeology in accordance with policy HE2 of the Places and Policies Local Plan.

## **e) Heritage**

- 7.19 The Planning (Listed Buildings and Conservation Areas) Act 1990. Section 16(2) of the Act requires special regard to be had to the desirability of preserving the Listed Building or its setting or any special architectural or historic features it possesses. Therefore the main issue in the consideration of the proposals is the effect of the works on the architectural or historic interest of the Listed Building and any adjacent listed buildings. As the application site is within the Elham Conservation Area, the requirements of section 72 (1) of the same legislation, namely the desirability of preserving or enhancing the character or appearance of that area, must also be observed.

- 7.20 The NPPF sets out that planning should be achieving sustainable development, defined as having economic, social and environmental dimensions (para 8), with the role of planning to include protecting and enhancing the historic environment. Paragraph 8 identifies that economic, social and environmental gains should be sought jointly and simultaneously, with heritage assets conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.
- 7.21 Paragraph 202 sets out that where a development proposal will lead to less than substantial harm to the significance, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. As such, the NPPF acknowledges that harm to the listed building designated heritage assets may be acceptable if outweighed by public benefits. It is important to clarify that preservation in this context means not harming the interest, as opposed to keeping it utterly unchanged, so some change may be accommodated.

### *Alterations to the fabric of the building*

- 7.22 Beginning with the works that directly affect the fabric of the building, these have been described in paragraphs 3.4 and 3.5 above. The rear extension would be a significant addition to the listed building but has been designed to utilise the modest vernacular of a group of outbuildings that have been added over time, with a single-storey form that does not dominate the listed structures, maintains period architectural detailing and utilises sympathetic materials for the external surfaces, full detail of which can be secured via condition.
- 7.23 The retention and refurbishment of the small c18th timber framed building is welcomed, with the retention of the existing south entrance, the proposed second opening on the north side and the connecting link to the rear range all considered acceptable. Conditions should be imposed to secure the proper retention/repair of the framework, cladding etc. and the detailing of the plinths, especially on the east side, together with the details of the conversion and upgrading of the interiors.
- 7.24 In respect of the front of the main Kings Arms building, the blocking of the existing entrance door from The Square alongside the proposal to convert the Victorian porch into a snug area would not give rise to harm to the listed building. However, some concern remains over the removal of the structure between the two existing front doors, which could be a c15th structure, boxed in during the c19th and if this is the case, its removal would not be acceptable. The applicant has been advised to omit this element from the scheme and replace it with a proposal to retain the post but allowing the stripping away of the more recent claddings around it. If the opening up of the area reveals no historic structure, detailed drawings of the doorway area could be secured via condition, showing the complete removal of the post.
- 7.25 For the eastern-facing ground floor wall of the range, it is proposed to remove the late c19th brickwork and replace it with timber framing and glazing. This approach would result in the replacement wall being more slender, saving space and via the glazing, allow a better interaction between the bar area and the courtyard area outside. From an historic building point of view, this alteration would have the benefit of restoring the historic jetty to view and reinstating the sense of the original structure of the building at ground floor level, which is currently obscured by the brick wall.

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- 7.26 However, current proposals show no framing in the section nearest the main range as the brickwork obscures some of the evidence required to inform the placement of such framing and it is considered that the most appropriate way forward would be to impose a condition on any consent requiring that the detailed design of the timber framework should be agreed as works proceed, at a point where investigative opening up and removal of the brickwork will provide the evidence to allow the rest of the framing design to be determined, thus enabling it to be properly reconstructed to the historic arrangement.
- 7.27 The detail of the frameless glass lobby and connecting link to the outbuilding should be secured by condition, alongside all details of handrails, boundary treatments and landscaping materials.
- 7.28 Overall, it is considered that the proposals for alteration to the fabric of the listed building would be acceptable and would cause less than substantial harm to its significance.

## *Alterations to setting*

- 7.29 In relation to the Kings Arms, the proposed extensions, alterations and landscaping are predominantly to the rear and it is considered that the low-level nature of the structures combined with the materials proposed and their design, would result in there being very limited impact upon the views of the garden area from Cock Lane. In views from the curtilage of the property itself, the rear elements of the building would still be able to be appreciated from the pub garden as they are now and there is considered to be little change in this regard. The appreciation of the Kings Arms from The Square would not be impacted as a consequence of the external works being to the rear and views of this obscured by the property itself and those to either side. Overall the setting of the Kings Arms is not considered to be detrimentally impacted.
- 7.30 Turning to the adjacent listed buildings of Corner Cottage, Wise Follies and The Cottage, the primary appreciation of Wise Follies is from The Square; for Corner Cottage it is The Square and Cock Lane; for The Cottage, the main view is from Cock Lane. In this respect, the proposed extensions and alterations are considered to have no discernible impact upon the setting of these structures when viewed from The Square and when viewed from Cock Lane, they are considered likely to be subservient and would not detract from or interfere with views of the heritage assets. From within the pub garden and courtyard areas, the existing views of these properties are considered unlikely to be impacted as a consequence of the proposed works. Indeed, the refurbishment of the courtyard area adjacent to the rear range of the Kings Arms will improve the immediate setting of both Cockpit Cottage and Corner Cottage. Overall, there is considered to be no harm to the setting of the adjacent listed buildings.

## *Consideration of Impacts*

- 7.31 Paragraph 202 of the NPPF states that “where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use” and it is considered that the proposals would result in less than substantial harm to the listed building itself and to its setting. The public benefits are considered to be:

- Economic development through investment into the existing rural business;



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- Supporting local business and services who may be involved in the construction process;
- Refurbishment of the listed building;
- Enhancements to the significance of the Kings Arms through the removal of 19<sup>th</sup> Century wall to better reveal the dimensions and structure of the historic range.

7.32 It is considered for this case that the less than substantial harm to the listed building would not affect its significance and would be outweighed by the public benefits of the proposal, in accordance with paragraph 202 of the National Planning Policy Framework and policy HE1 of the Places and Polices Local Plan.

## *Conservation Area*

7.33 In respect of the Conservation Area, the views of the application site from The Square will be unaffected by the proposals. From Cock Lane, views westward toward the rear garden area of the public house are possible, with the proposed extensions to the rear likely to be visible. However, as set out at paragraphs 7.6 and 7.7 previously, the single-storey nature of the development, as well as the architectural detailing and choice of locally distinctive materials will mean that the buildings would have no detrimental impact as regards scale, form or character, with some harm from the visual presence of additional built form.

7.34 The harm of the additional built form is considered to be less than substantial and as set out in paragraph 7.31 this harm should be weighed against the public benefits of the proposal. The benefits of the proposal are considered to be the same as above and it is considered that the less than substantial harm to the conservation area would not affect its significance and would be outweighed by the public benefits of the proposal in accordance with paragraph 202 of the National Planning Policy Framework and policy HE1 of the Places and Polices Local Plan.

## **f) Highways**

7.35 The existing business has no existing off-street parking or parking allocation. Clientele and staff primarily utilise The Square and the surrounding road network, whilst local visitors and staff may choose to walk.

7.36 There is an approximate 44.7sqm increase in trading area as a consequence of the proposals, which equates to an additional demand of 4 car parking spaces for customers. Staffing figures are identified to rise, with approximately 10 additional full time equivalent staff creating a demand for 5 additional spaces. It is noted that many part time staff will come from the local area and may walk to work, but this cannot be guaranteed.

7.37 Concern has been raised locally with regard to the availability of parking for the public house, with the proposed refurbishment, investment and extension considered likely to increase demand as the business aspires to become a destination venue.

7.38 In this respect, although there would be an increased demand for parking associated with the public house, paragraph 111 of the NPPF sets out that; *“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”*

7.39 For this proposal, it is considered that the increase in demand for parking is unlikely to result in any significant detriment to highway safety, with the additional demand likely to be in the region of 9 spaces over and above the existing use, at peak times. Local authorities must use their discretion in the application of the standards in town and district centres, having regard to the availability of public off street parking and the need to encourage the vitality of centres and investment in them. This proposal would bring investment to, refurbish a listed building and would support an existing community facility. The impact upon the surrounding road network and the amenity of residents is considered unlikely to be as severe as to result in highway safety issues or significant consistent detriment to residential amenity that would warrant refusal. Overall, the existing parking provision is considered acceptable and in accordance with policies HB1 and T2.

## **Environmental Impact Assessment**

7.40 In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1 & 2 of the Regulations and it is considered to fall within Schedule 2, Part 10b, being an urban development project. The site is within the Kent Downs Area of Outstanding Natural Beauty and adjacent to the Lympne Escarpment Site of Special Scientific Interest, so the threshold is not relevant as the application site is within a sensitive area. Consequently, a screening opinion has been carried out by the Council and has concluded that the development is not EIA development and as such an Environmental Statement was not required. Please see formal screening opinion on the planning file for further detail.

## **Local Finance Considerations**

7.41 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.

7.42 In accordance with policy SS5 of the Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area. This application is not liable for the CIL charge.

## **Human Rights**

7.43 In reaching a decision on a planning application the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.

## **Public Sector Equality Duty**

7.44 In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

It is considered that the application proposals would not conflict with objectives of the Duty.

### **Working with the applicant**

7.45 In accordance with paragraphs 38 of the NPPF, Folkestone and Hythe District Council (F&HDC) takes a positive and creative approach to development proposals focused on solutions. F&HDC works with applicants/agents in a positive and creative manner.

## **8. PLANNING APPLICATION CONCLUSION (20/0747/FH)**

8.1 The proposal would result in the restoration and refurbishment of a grade II listed building and maintain and enhance the current viable use, whilst allowing an existing rural enterprise to expand. Whilst this would result in less than substantial harm to the significance of the listed building and the visual character of the conservation area and designated AONB through the introduction of structures in the immediate setting, the impacts are considered to be acceptable and outweighed by the public benefits of the proposal from increased economic activity, supporting the appropriate expansion of rural enterprises and supporting a heritage asset in its most viable use. All other material considerations at the site are considered to be acceptable in terms of impacts upon residential amenity, visual amenity, highway safety and archaeology, subject to suitable conditions.

## **LISTED BUILDING CONSENT CONCLUSION (20/0752/FH)**

8.1 The proposed works would result in the restoration and refurbishment of a grade II listed building. Whilst this would result in less than substantial harm to the significance of the heritage asset, the impacts are considered to be acceptable and outweighed by the public benefits of the proposal from increased economic activity, supporting the appropriate expansion of rural enterprises and supporting a heritage asset in its most viable use.

## **9. BACKGROUND DOCUMENTS**

9.1 The consultation responses set out at Section 5.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

## 1. RECOMMENDATIONS

**That planning permission and listed building consent be granted subject to the following conditions and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.**

### Conditions:

20/0747/FH (Planning Permission)

1. The development must be begun within three years of the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans:

Proposed Site Block & Location Plan K.A.E / 20/109 Rev. B  
Proposed Elevations K.A.E / 020 / 110 Rev. C  
Proposed Plans K.A.E / 20 / 111 Rev. D

Reason: For the avoidance of doubt and in order to ensure the satisfactory implementation of the development.

3. Development shall not commence until details and/or samples of the materials to be used in the construction of the development hereby permitted, inclusive of finishes and colours, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and colours not changed without prior written approval of the Local Planning Authority.

Reason: To ensure the satisfactory appearance of the completed development and in the interests of visual amenity.

4. No development beyond the construction of foundations shall take place until details of a landscaping scheme for the site, inclusive of the fruit trees required to be planted to the rear of Cockpit Cottage and including an implementation programme and maintenance schedule, has been submitted to the Local Planning Authority for approval in writing. The landscaping scheme shall be carried out in accordance with the approved details and implementation programme unless an alternative timescale has first been agreed in writing with the Local Planning Authority. The soft landscape works shall be maintained in accordance with the agreed maintenance schedule. Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.

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Reason: In order to protect and enhance the appearance of the area.

5. No development beyond the construction of foundations shall take place until a detailed external lighting scheme for the whole development, including associated timings, has been submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the first use of the development hereby approved, and thereafter retained and maintained to the approved specification. The details submitted shall demonstrate that the area will maintain existing light levels at the site. No additional lighting shall be installed on the land, the subject of this application, without the prior submission to and approval in writing of details by the Local Planning Authority.

Reason: In order to reduce light pollution and maintain the character of the countryside.

6. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved in writing by the Local Planning Authority. Works shall be carried out in accordance with the approved details.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

7. Details of all boundary treatments and fencing to be installed within and around the site shall be submitted to the local planning authority for approval in writing, prior to the first use of the facility. Such details as are approved shall be retained and maintained in accordance with the approved details at all times.

Reason: In the interests of visual and residential amenity.

8. No amplified music shall be played to the external areas at the premises

Reason: In the interests of residential amenity.

9. No extraction equipment shall be installed until full details of its design, siting, discharge points and predicted acoustic performance have been submitted to and approved by the Local Planning Authority. Development shall be carried out in accordance with the approval and be retained as such thereafter

Reason: In the interests of residential amenity.

10. The service lift shown on the approved plans shall not be installed until full details of its predicted acoustic performance and times of use have been submitted to and approved by the Local Planning Authority and be retained as such thereafter.

Reason: In the interests of residential amenity.

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11. The fire escape shown on the approved plans shall be used for emergency purposes only and not for general access and egress.

Reason: In the interests of residential amenity.

12. The main entrance to the building shall be as shown on the approved plans, being a double door entry system with a lobby.

Reason: In the interests of residential amenity.

13. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of an archaeological watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that structural building works and groundworks are observed and archaeological information recorded. The watching brief shall be in accordance with a Written Scheme of Investigation, which has first been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

## Conditions:

### 20/0752/FH (Listed Building Consent)

1. The development and works to which this consent relates shall be begun before the expiration of three years from the date of this consent.

Reason: In pursuance of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

2. The works hereby approved shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers:

Proposed Site Block & Location Plan K.A.E / 20/109 Rev. B

Proposed Elevations K.A.E / 020 / 110 Rev. C

Proposed Plans K.A.E / 20 / 111 Rev. D

Reason: For the avoidance of doubt and in order to ensure the satisfactory implementation of the works.

3. Notwithstanding the current proposals for the reinstatement of the framing to the rear range east wall, a detailed structural scheme for the design of the framing shall be submitted to and approved by the Local Planning Authority prior to the construction of this element of the scheme, with such proposals to be based on the archaeological survey and reconstruction drawing produced by Canterbury Archaeological Trust and supplemented by further information made available following preliminary exploratory works, the details of which shall also be submitted to and approved in writing by the Local Planning Authority prior to the substantive works commencing. Such details as approved shall be thereafter implemented.

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Such drawings to be provided shall be at scales 1:20 or 1:50 with detailed elements at scales 1:5 or 1:10, together with the dimension (scantlings) of all structural members within the reconstructed framing.

Reason: In the interest of the special architectural or historic interest of the heritage asset.

4. Following preliminary exploratory works, detailed elevations of the doorway area, both from within the public house and from within the porch, together with a section, both as existing and as proposed, shall be submitted to the Local Planning Authority for approval at a scale of 1:20 or 1:10 with details of alterations to joinery at a scale of 1:5 or 1:2. Such details as approved shall be thereafter implemented and retained.

Reason: In the interest of the special architectural or historic interest of the heritage asset.

5. No works beyond the construction of foundations shall take place until full details of external finishes and colours have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details and be retained as such thereafter.

Reason: In the interest of the special architectural or historic interest of the heritage asset.

6. No works beyond the construction of foundations shall take place until full details of the construction of eaves, verges, lantern light, escape staircase and plinths have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and be retained as such thereafter. Drawings shall be at scales of 1:5, 1:10 or 1:20 as appropriate.

Reason: In the interest of the special architectural or historic interest of the heritage asset.

7. Roof detailing shall follow traditional peg tile detailing, with hogs back ridges, bonnet hips and valleys and plain tiled verges, avoiding tile-and-a-half's at verges, with no works beyond the construction of foundations to take place until full details of the roofs have been submitted to and approved in writing by the Local Planning Authority. Works shall thereafter be carried out in accordance with the approved plans and be retained as such thereafter. Drawings to be scale 1:5, 1:10 or 1:20 as appropriate.

Reason: In the interest of the special architectural or historic interest of the heritage asset.

8. No works beyond the construction of foundations shall take place until details of the construction of any fencing, balustrading, screens, and brickwork to boundary walls and retaining structures at scales of 1:5, 1:10 or 1:20 as appropriate have been

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submitted to and approved in writing by the Local Authority. Works shall thereafter be carried out and retained in accordance with the approved plans.

Reason: To preserve the special architectural or historic interest of the heritage asset.

9. No works beyond the construction of foundations shall take place until details of the hard landscaping proposals inclusive of details of existing and proposed levels, paving materials, the design of steps and the goods lift proposal on the eastern boundary of the site at scales of 1:5, 1:10 or 1:20 as appropriate have been submitted to and approved in writing by the Local Authority. Works shall thereafter be carried out and retained in accordance with the approved plans.

Reason: To preserve the special architectural or historic interest of the heritage asset.

10. Prior to commencement of works, a detailed survey of the structural frame of the retained outbuilding (former stable building) showing the extent of repair, replacement or retention of the structural frame members and any alterations at a scale of 1:50 (unless otherwise appropriate) shall be submitted to and approved in writing by the Local Authority. Works shall thereafter be carried out in accordance with the approved plans and be retained as such.

Reason: To preserve the special architectural or historic interest of the heritage asset.

11. Prior to commencement of works, details of the conversion and upgrading of the stable building showing the positioning of insulation, internal finishes, floor slab and ventilation at a scale 1:20 (unless otherwise appropriate) shall be submitted to and approved in writing by the Local Authority. Works shall thereafter be carried out in accordance with the approved plans and be retained as such.

Reason: To preserve the special architectural or historic interest of the heritage asset.

12. Prior to commencement of works, details of the proposed glazed link between the retained outbuilding and the main rear range of the public house at a scale of 1:20 (unless otherwise appropriate) shall be submitted to and approved in writing by the Local Authority. Works shall thereafter be carried out and retained in accordance with the approved plans.

Reason: To preserve the special architectural or historic interest of the heritage asset.

13. Prior to commencement of works, details showing the existing and proposed treatment of the elevations exposed by the removal of the existing w/c, within and outside the frontage range building and showing the treatment of any wall linings cladding etc, together with the treatment of the proposed structural post, intended to provide replacement support to the first floor bathroom, which is to remain following the demolition of the ground floor toilets beneath it, shall be submitted to and approved in writing by the Local Authority. Works shall thereafter be carried out and retained in accordance with the approved plans.



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Reason: In the interest of the special architectural or historic interest of the heritage asset.

14. The brick bonding throughout the works shall be Flemish bond and details of the mortar mix to be used shall be submitted to and approved in writing by the Local Planning Authority for approval prior to commencement of works. All mortar shall be finished flush and 'brushed back' and be retained as such thereafter.

Reason: In the interest of the special architectural or historic interest of the heritage asset.

15. All rainwater goods to be used as part of the works hereby permitted shall be of cast iron construction unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interest of the special architectural or historic interest of the heritage asset.

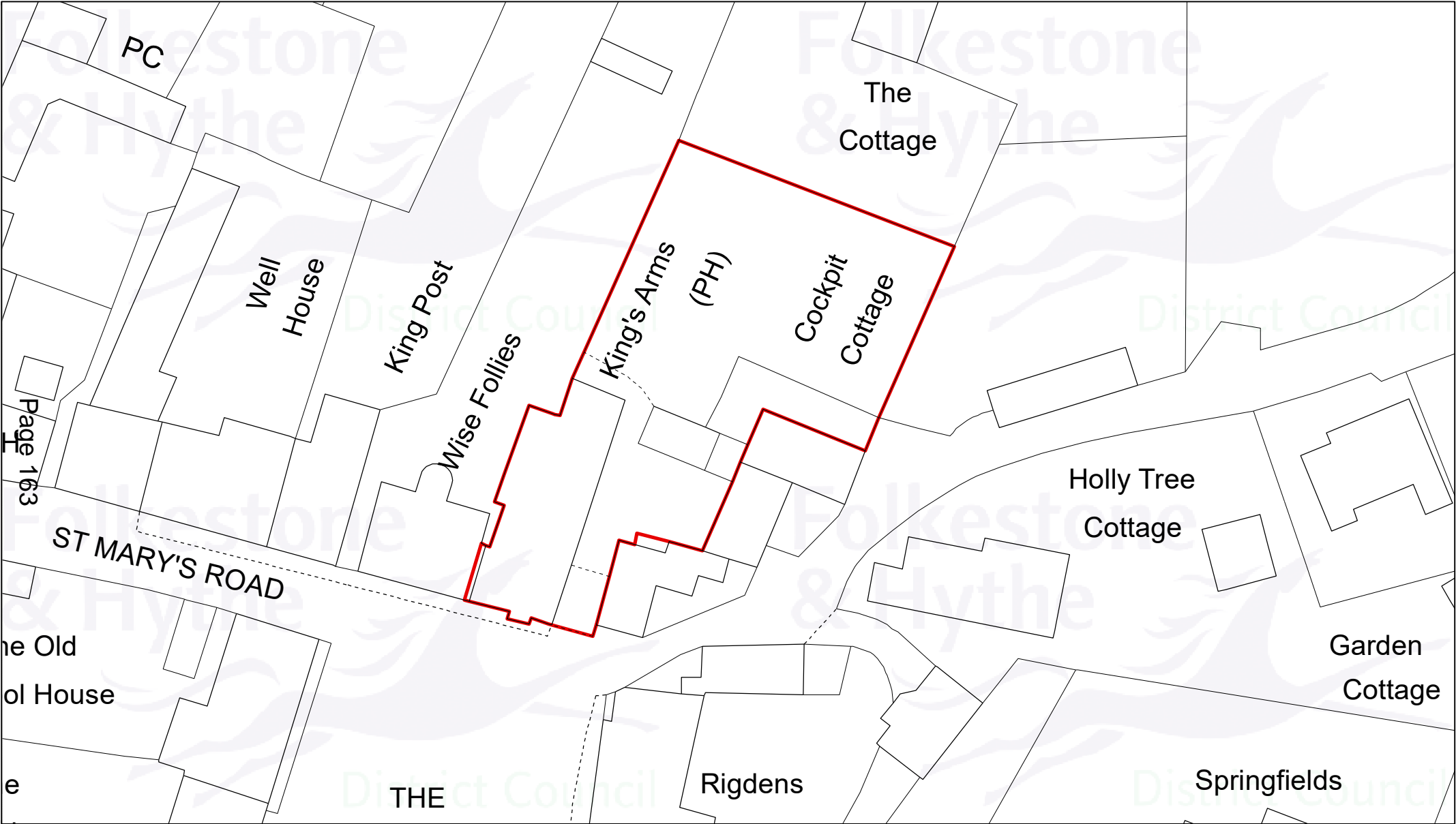
16. No works shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of building assessment and recording in accordance with a written specification and timetable which has first been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that historic building features are properly examined and recorded.

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Kings Arms, The Square, Elham, Canterbury, CT4 6TJ

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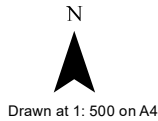
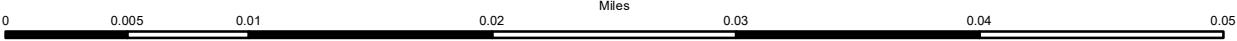
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12 Jan 2022

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A. Gheorghita

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# Agenda Item 10

## DCL/21/43

<b>Application No:</b>	21/0964/FH
<b>Location of Site:</b>	Land 250 North East of Longage Hill Farm Cottages, Lyminge
<b>Development:</b>	Retrospective application for the erection of two timber sheds for agricultural storage and associated hardstanding (re-submission of 20/1799/FH)
<b>Applicant:</b>	Mr. K Herbert
<b>Officer Contact:</b>	David Campbell

### SUMMARY

The report considers an application for retrospective planning permission to retain two timber sheds for agricultural storage along with associated hardstanding. The report considers how the development impacts upon the character of the countryside, Area of Outstanding Natural Beauty and Special Landscape Area, finding that there would be no detrimental impact upon either. It is also considered to be no likely detrimental impact upon the amenity of neighbouring uses or detrimental impact upon the highway. As such it is considered that the proposal accords with the existing and emerging policies of the Development Plan and is consistent with the requirements of the National Planning Policy Framework.

### RECOMMENDATION:

<b>That planning permission be granted.</b>
---

#### 1. INTRODUCTION

- 1.1. The application is reported to Committee as Lyminge Parish Council have objected on the grounds of visual impact and harm to the AONB.

#### 2. SITE AND SURROUNDINGS

- 2.1. The application site forms a parcel of land of approximately 1.9Ha located on the northern side of Longage Hill, opposite Longage Farm Cottages. The land in question is bounded by other fields and access from Longage Hill.
- 2.2. The land is currently in agricultural use and aerial photography shows that at some point between the years of 2015 – 2018 the land was subject to alterations, including the planting of bushes/trees along with the placing of various structures/items. The placement of linear bushes / polytunnels, fruit trees and other horticultural based paraphernalia, together with the keeping of animals were noted during the site visit, forms the basis of a small agricultural holding.

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- 2.3. The supporting information confirms that at the time of submission the applicant has 45 apple trees on site producing some 4 tonnes of fruit per year, 35 pear trees producing 1.5 tonnes of fruit per year, 19 Cobb trees producing 0.25 tonnes per year and 44 cherry trees producing some 2.6 tonnes of cherries per year. He also produces some 7 tonnes of sloes per year and is also growing raspberries and gooseberries.
- 2.4. With regard to livestock on site, the applicant keeps 4 rams, 6 ewes and lambs which he provides with 2kg of hay per head per day plus sheep nuts in the weeks prior to lambing. The applicant also keeps 21 chickens, 20 geese and 14 ducks. The livestock feeding regime requires the applicant to visit the site daily. Per month, he uses some 39 sacks of corn, 16 sacks of sheep nuts and 16 bales of hay, all of which need to be transported to and stored on site in a safe and dry manner. In terms of area, the applicant limits his livestock to the size of his land and works to the RSPCA standards of space provision per animal/bird.
- 2.5. The site is outside of any settlement boundary, within the Area of Outstanding Natural Beauty, Special Landscape Area and an Area of Archaeological Potential.
- 2.6. A site location plan is attached to this report as **Appendix 1**.

## 3. PROPOSAL

- 3.1 Retrospective planning permission is sought to retain two timber sheds (labelled A and B) as shown on the submitted site location plan as well as hardstanding to the front of the site.
- 3.2 The large timber shed (A) measures approximately 11m x 3.6m and 2.8m to the ridge. This shed includes an overhang, two windows and two doors. The roof is constructed of a dark corrugated metal with black rainwater goods. The large timber shed is used for tool storage, fruit presses and ride on tractor as well as facilities to meet the applicant's specific medical needs. The applicant needs to access all sides of the unit in his wheelchair and is not able to move tools and equipment back and forth to the site on a daily basis. Figure 1 below shows shed A.



Figure 1: Photograph of shed A.

3.3 The small timber shed (B) measures approximately 3.6m x 3.6m and 2.8m to the ridge. This shed includes an overhang, three windows and one door. The roof is constructed of a dark corrugated metal with black rainwater goods. To the rear of this shed are rainwater harvesting tanks as shown in the photos submitted by the applicant. The shed is used for the storage of feed, tools and equipment. Both wooden buildings are single storey and can be moved around the site by means of towing eyes left attached to the buildings. Figure 2 below shows shed B.



Figure 2: Photograph of shed B.

- 3.4 A metal container which was part of the previous application has been removed from this resubmission application. It was in place at the time of the site visit but the applicant has informed the LPA this has been sold and will be removed.
- 3.5 Hardstanding is required for vehicular access to the site. The applicant has also stated that the sheds are needed to ensure the security of his equipment at this site too.
- 3.6 The following reports were submitted by the applicant in support of the proposals:

#### Covering Letter

- 3.7 This document sets out the need for the development and how it assists the applicant manage the site with his disabilities. This includes storage for ride on lawnmowers which have been adapted for his use to enable him to feed and tend to his livestock and fruit trees and carry out other farm related activities on site such as repairs to fencing and ground maintenance.

## **4. RELEVANT PLANNING HISTORY**

- 4.1 The main relevant planning approvals for the main site are as follows:

20/1799/FH Retrospective application for the siting of two timber sheds and one metal container was refused earlier in 2021 for the following reasons:



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1. The proposed metal storage container (container B), by virtue of its poor visual and industrial appearance, would fail to protect the quality of the countryside setting, would fail to conserve and enhance the natural beauty in the AONB and would also fail to protect or enhance the SLA, contrary to local plan policy CSD4 of the Shepway Core Strategy, policies HB1 and NE3 PPLP and the NPPF.
2. The proposed timber sheds (sheds A & C), by virtue of their cumulative visual impact without supporting justification as to their essential need, would result in development that would fail to protect the quality of the countryside setting, would fail to conserve and enhance the natural beauty in the AONB and would also fail to protect or enhance the SLA, contrary to local plan policy CSD3 and CSD4 of the Shepway Core Strategy, policies HB1 and NE3 PPLP and the NPPF.

## 5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

### Consultees

**Lyminge Parish Council:** Objects for the following reason:

The new evidence supplied by the applicant does nothing to mitigate the visual aspect of this site and the council continue to endorse the original AONB office comments. Permanent buildings such as this are inappropriate for agricultural land in an AONB. The land is one plot in amongst many others and approval would set a precedent.

**AONB Unit:** Raise no objection making the following comments:

Have no objections to the application based on the receipt of additional information. While the sheds are not visible from publicly accessible land outside of the site, this is not the only test of acceptability within an AONB; the Courts have held that the fact a development is not viewable by the general public does not mean that there is no harm to the intrinsic character. That said, it is accepted that with the removal of the storage container, the remaining two timber sheds have a negligible impact on the special character and qualities of the AONB.

They remain concerned about the domestic paraphernalia that is located within the site, and the general subdivision of this and the surrounding land, and in view of this the potential for a proliferation of such structures across this wider area which would be more harmful to the landscape and scenic beauty of the Kent Downs, they understand and accept that this does not form part of the current application under consideration.

**Rural Planning Consultant:** Raises no objection making the following comment:

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The sheds are modest in extent and appear necessary and appropriately designed for the stated purposes.

## **Local Residents Comments**

5.2 Five neighbours directly consulted. Nine letters of objection have been received.

5.3 I have read the letters received. The key issues are summarised below:

- This is agricultural land and this is an attempt to use the land for other purposes, which will set an irreversible precedent if repeated
- It's located in the Elham Valley AONB and countryside which should be protected and where these structures or hardstanding should not be accepted
- The timber sheds fail to protect the quality of the countryside setting, fail to conserve and enhance the natural beauty in the AONB and fail to protect or enhance the SLA, contrary to local plan policy CSD3 and CSD4 of the Shepway Core Strategy, PPLP policies HB1 and NE3 and the NPPF.
- The activity on the site is already unlawful.
- Was a site notice visibly displayed for the statutory period?
- A right of way for vehicles from the farm gate on Longage Hill to the application site, should be indicated on the location plan.
- Are the sheep that graze on the land adjoining the application the ones mentioned in the letter accompanying the application? If so should this adjoining land be included within the area outlined in red on the location plan?
- As towing eyes have been attached to the timber sheds. Does this mean that the sheds are to be moved from time to time all around the site?
- No mention has yet been made about the mobile home that has been on the site for some considerable time. It also looks likely that the horse trailer with living accommodation will end up the same way.
- To gain access to the site a public footpath has to be crossed which has resulted in the footpath becoming badly rutted from vehicles showing no concern for walkers or the landscape.
- This is a well walked public footpath and the site and all its rubbish scattered around is clearly visible.
- As well as the two timber sheds referred to there are other timber structures on the site - these have not been mentioned.
- The hard standing would blight the landscape and be totally out of keeping with the area of an AONB.
- It must remain for proven agricultural use only - not leisure.
- Previous reasons for refusal have not been overcome.
- The personal circumstances of an applicant do not normally amount to a material planning consideration as permission granted usually applies to the land.

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- There is no essential need that requires the applicant to use this site in the manner outlined and do not amount to very special circumstances that justify the approval of the application.
- The visual clutter created from the use of the site for the purposes identified further harms the amenities and creates visual harm by the proliferation of equipment amounting to an uncontrolled visual eyesore.
- The application amounts to inappropriate development within the countryside without sufficient justification that outweighs the harms caused.
- Insufficient evidence in the form of accounts and/or an agricultural expert's report has been provided to demonstrate that the applicant has a genuinely commercially viable agricultural business on the holding.

**CPRE Shepway:** Object for the following reasons:

The CPRE is surprised this application has not been rejected. Reasons for rejection have been set out by AONB unit and the Parish in response to this and previous applications for the site. The proposal is wholly inappropriate to this rural location.

5.5 Responses are available in full on the planning file on the Council's website:

<https://searchplanapps.folkestone-hythe.gov.uk/online-applications/>

## 6. RELEVANT PLANNING POLICY

6.1 The Development Plan comprises the Places and Policies Local Plan 2020 and the Core Strategy Local Plan 2013.

6.2 The Folkestone & Hythe District Core Strategy Review Submission Draft was submitted to the Secretary of State on 10 March 2020. Inspectors were appointed to examine the plan on 19th March 2020 and public hearings were held from 15th to 18th December 2020, from 5th to 12th January 2021 and from 29th June to 1st July 2021. The Inspectors wrote to the council on 1st July 2021 to state that the Core Strategy Review complies with the duty to cooperate and can be made 'sound' by amendment through main modifications. The Inspectors followed up their initial assessment by letter on 16th July 2021, stating that, subject to main modifications concerning detailed policy wording, they consider that the plan's spatial strategy and overall approach to the district's character areas and settlements is sound. In accordance with National Planning Policy Framework (2021) paragraph 48, the policies in the Core Strategy Review should therefore be afforded significant weight, having regard to the Inspectors' outline of main modifications required.

6.3 The relevant development plan policies are as follows:-

### Places and Policies Local Plan 2020

Policy HB1 – Quality Places Through Design

Specifically, Policy HB1 PPLP states amongst other things, that development will be granted where the proposal makes a positive contribution to its location and

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surroundings, enhancing integration while also respecting existing buildings and land uses, particularly with regard to layout, scale, proportions, massing, form, density, materiality and mix of uses so as to ensure all proposals create places of character.

Policy NE1 – Enhancing and Managing Access to the Natural Environment

Policy NE3 – Protecting the District’s Landscapes and Countryside

Policy NE3 refers to protecting the district’s landscapes and countryside and states that the impact of individual proposals and their cumulative effect on the Kent Downs Area of Outstanding Natural Beauty (AONB) and its setting will be carefully assessed. Planning permission will be granted where it can be demonstrated that all the following criteria have been met:

1. The natural beauty and locally distinctive features of the AONB and its setting are conserved and enhanced;
2. Proposals reinforce and respond to, rather than detract from, the distinctive character and special qualities including tranquillity of the AONB. The design scale, setting and materials of new development must be appropriate to the AONB;
3. Either individually or cumulatively, development does not lead to actual or perceived coalescence of settlements or undermine the integrity of the predominantly open and undeveloped, rural character of the AONB and its setting;
4. Development is appropriate to the economic, social and environmental well-being of the area or is desirable for the understanding and enjoyment of the area (where this is consistent with the primary purpose of conserving and enhancing natural beauty); and
5. Development meets the policy aims of the Kent Downs AONB Management Plan and AONB Unit produced supporting design guidance.

With regards to the SLA, proposals should protect or enhance the natural beauty of the Special Landscape Area. The Council will not permit development proposals that are inconsistent with this objective unless the need to secure economic and social wellbeing outweighs the need to protect the SLAs' county-wide landscape significance.

Policy HE1 – Heritage Assets

Policy HE2 – Archaeology

Core Strategy Local Plan (2013)

Policy DSD – Delivering Sustainable Development

Policy SS3 – Place-Shaping and Sustainable Settlements Strategy

Policy CSD3 – Rural and Tourism Development

Policy CSD4 – Green Infrastructure of Natural Networks, Open Spaces and Recreation

Core Strategy Review Submission draft (2019)

Policy SS3 – Place-Shaping and Sustainable Settlements Strategy

Policy CSD3 – Rural and Tourism Development

Policy CSD4 – Green Infrastructure of Natural Networks, Open Spaces and Recreation

Of the above policies the following are considered to be of particular relevance in this case:

Policy DSD of the Core Strategy refers to sustainable development.

Policy CSD3 refers to rural and tourism development and says that proposals for new development in locations outside of the settlement hierarchy may only be allowed if a rural location is essential this includes agricultural use.

Policy CSD4 seeks in part, to protect the AONB and says that planning decisions will have close regard to the need for conservation and enhancement of natural beauty in the AONB and its setting, which will take priority over other planning considerations.

6.4 The following are also material considerations to the determination of this application.

## **Government Advice**

National Planning Policy Framework (NPPF)

Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:-

Paragraph 11 - Presumption in favour of sustainable development.

Paragraph 47 - Applications for planning permission be determined in accordance with the development plan.

Paragraph 48 – Giving weight to emerging plans.

Paragraph 127 -130 – Achieving well designed places.

Paragraph 174 - Conserving and enhancing the environment

Paragraph 180 - Habitats and biodiversity

Paragraph 194 - Proposals affecting heritage assets

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At a national level, most notably paragraph 176 of the NPPF says that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. Paragraph 177 states that in the AONB there should be a need for the development and the extent to which any detrimental effects could be moderated.

## 7. APPRAISAL

7.1 In light of the above the main issues for consideration are:

- a) Visual Impact / Impact on the AONB & SLA
- b) Amenities of neighbouring occupiers
- c) Impacts upon Grade II\* Listed Building (Sibton Park)
- d) Archaeology
- e) Other Matters

### **a) Visual Impact / Impact on the AONB & SLA**

7.2 The site is located outside of any settlement boundary, and is therefore within the open countryside when taking account of local planning policy. The site is also within a Special Landscape Area (SLA) and the Kent Downs Area of Outstanding Natural Beauty (AONB).

7.3 The large timber shed (A), is constructed of materials that would be appropriate and not incongruous within its rural location. It is of a fairly significant size in terms of floorspace generated. However, information submitted by the applicant explaining the need for this shed and how it required for the agricultural use has been assessed by the Council's Rural Planning Consultant who has raised no objections and has concluded that they appear to be necessary for agricultural need purposes.

7.4 The smaller timber shed (B) is fairly modest in size relative to its location within the site and is of a material that is in keeping with the rural setting. At this size and scale it does not appear overly incongruous within the site and its visual appearance, which is generally shielded by existing vegetation. Being sited against the northern boundary, close to scrub and trees where it appears less visually intrusive as a result. As a result it is considered to be acceptable.

7.5 Notwithstanding the above, planning policy CSD3 clearly states that proposals for new development in locations outside the settlement boundary may only be allowed if a rural location is essential. The onus is on the applicant to provide information to support their submission.

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- 7.6 The applicant has provided information setting out their general operations at the site, how the site functions and why the outbuildings are essential to operations taking place within the site. In light of the justification, it is considered that the proposal is justified and meets the terms of CSD3. The lack of objection from the AONB Unit based on the information the applicant has submitted has also been taken into consideration in coming to this conclusion.
- 7.7 Existing vegetation and natural screening conceals the structures from a number of views around the site and that assists in reducing the visual impact on the AONB and SLA. The removal of the metal container from the previous application, which is considered to cause harm and the additional information provided is considered to have overcome the previous reasons for refusal. It is considered that the hardstanding is proposed in a location that would not be visible from outside other than from the field directly in front of the access. As such there are no objections to this element either.
- 7.8 KCC Public Rights of Way have been consulted but have not commented. While the PROW is used to access the site, it is not considered that this obstructs other users of the path or would give rise to harm in this respect. Views from the PROW would be restricted to glimpse views only, and not in any way harmful in terms of visual amenity. As a result it is not considered that the application could be refused on these grounds. It is therefore considered that the proposal complies with national and local policies and would not harm the appearance of the countryside, AONB and SLA and as such there are no objections on these grounds.

## **b) Impacts upon Grade II\* Listed Building (Sibton Park)**

- 7.9 It is noted that concerns have been raised about the impacts on the setting of Sibton Part, a Grade II\* Listed Building.
- 7.10 The listed building is sited approximately 340m from the nearest structure subject of this application. Whilst it may be possible to see the structures from certain locations within the building/grounds of the listed building, the LPA does not consider that there would be any harm caused on the setting of the listed building given the separation distance involved.
- 7.11 There are therefore no objections on these grounds.

## **c) Archaeology**

- 7.12 The site is within an area of archaeological significance for major applications only and KCC Archaeology were not required to be consulted. It is considered that given the limited nature of the development which included the retention of hardstanding is unlikely to have impacted on any archaeological remains in an area. The retention of the proposal would have no detrimental impact on buried heritage assets in accordance with policy HE2 of the Places and Policies Local Plan.

## **e) Other matters**

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- 7.13 It is noted that concerns have been raised with regards to the site being occupied for residential purposes. A static caravan has been placed upon the land but the caravan does not form part of the application submission. There are certain exceptions under planning law for the temporary stationing of a caravans, although generally they cannot be used for residential purposes without the benefit of formal planning permission. The LPA enforcement team have investigated the caravan and confirmed that no permission is required for its stationing.
- 7.14 The issue of residential occupation within the countryside, now or in the future, is not a matter that can be considered as part of this application as residential use is not being sought by the applicant as part of this submission.
- 7.15 Given the lack of any nearby residential properties residential amenity is not considered to be a material consideration in this instance.

## **Environmental Impact Assessment**

- 7.16 In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1& 2 of the Regulations and it is not considered to fall within either category and as such does not require screening for likely significant environmental effects.

## **Local Finance Considerations**

- 7.17 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy. There is no CIL requirement for this development.

## **Human Rights**

- 7.18 In reaching a decision on a planning application the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.

## **Public Sector Equality Duty**

- 7.19 In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:



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- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

It is considered that the application proposals would not conflict with objectives of the Duty.

## **Working with the applicant**

7.20 In accordance with paragraphs 38 of the NPPF, Folkestone and Hythe District Council (F&HDC) takes a positive and creative approach to development proposals focused on solutions. F&HDC works with applicants/agents in a positive and creative manner.

## **8. CONCLUSION**

- 8.1 It is considered the retention of the timber sheds for agricultural storage along with associated hardstanding is acceptable for the reasons set out above. It is considered that the development would not detrimentally impact upon the character of the countryside, SLA and Area of Outstanding Natural Beauty, and no detrimental impact upon the amenity of adjoining uses, or detrimental impact upon the highway.
- 8.2 As such it is considered that the proposal accords with the existing and emerging policies of the Development Plan and is consistent with the requirements of the National Planning Policy Framework.

## **9. BACKGROUND DOCUMENTS**

9.1 The consultation responses set out at Section 5.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

## **10. RECOMMENDATIONS**

**That planning permission be granted.**

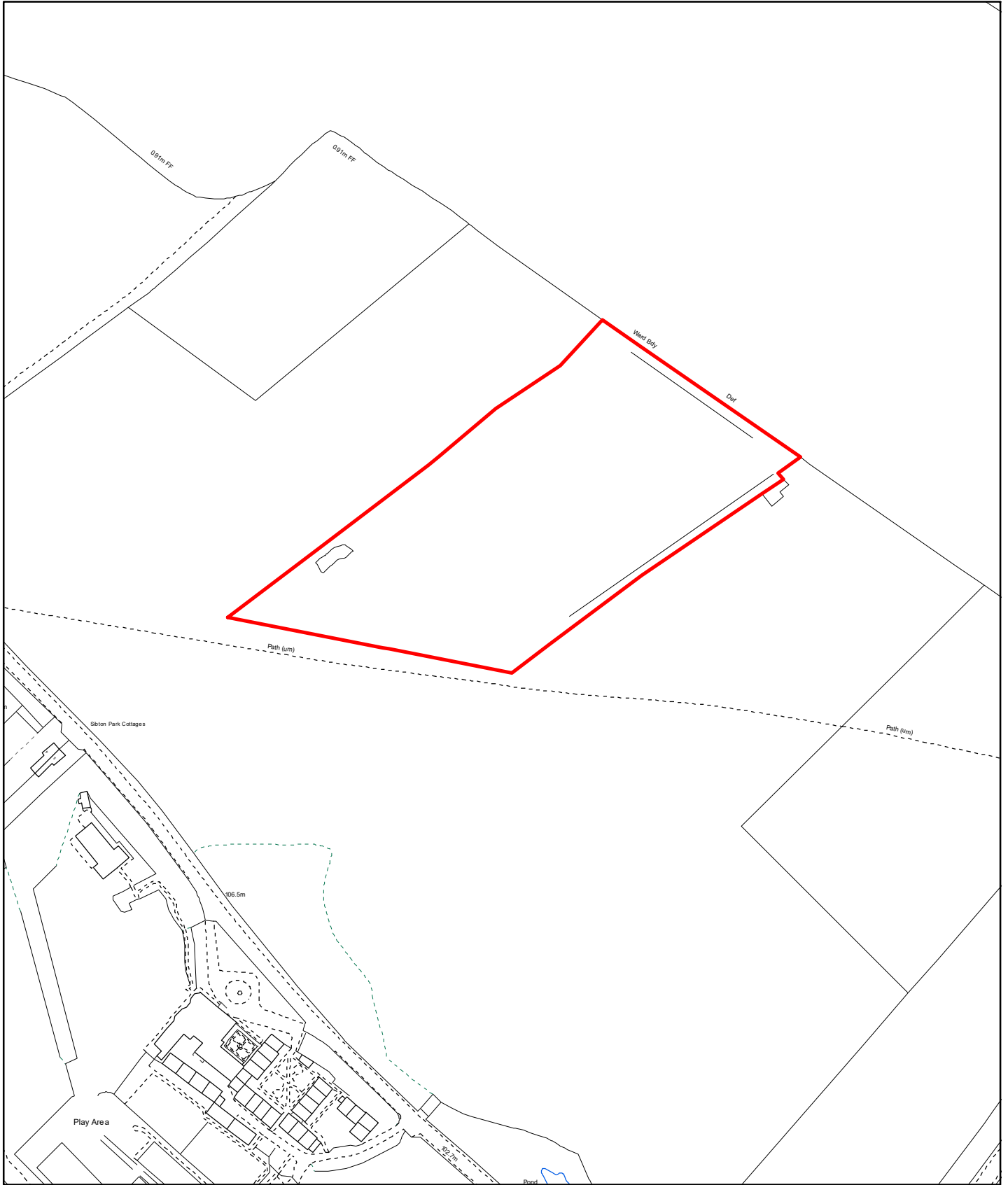
### Conditions:

1. Within six months of the date of this permission, the outbuildings hereby approved shall be dark stained and retained as such thereafter.

Reason: In the interest of the visual amenities of the area.

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**Plan referred to in Section 192**  
**Land 250 Metres North East Longage Farm Cottages, Longage Hill, Lyminge**



Planning Application:  
21/0964/FH  
Drawn date:  
12 Nov 2021  
Drawn by:  
Brian Harper  
Drawing ref:  
1641/LDC/LS

  
Llywelyn Lloyd  
Chief Planning Officer

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Folkestone & Hythe District Council 100019677 - 2021



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